IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.10.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.Nos.29633 & 29640 of 2024
and
W.M.P.Nos.32287, 32288, 32302, 32304 of 2024

Sri Ambal & Co.
79E, Avinashi Road, Annur,
Coimbatore 641 653.
Rep., by its Managing Partner ...Petitioner in both W.P's

Vs.

The Asst. Commissioner (ST),
Annur Assessment Circle,
Coimbatore. ... Respondent in both W.P's

Prayer in both W.P's: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records of the Respondent leading to issuance of Impugned Order dated 29.12.2023 vide GSTIN:33AAMFS8609M1ZL/2017-18 and quash the same and direct the Respondent to pass order after considering the reply to be filed by the Petitioner.

Appearance in both W.P's

For Petitioner : Mr.S.Sathyanarayanan

For Respondent : Mr.T.N.C.Kaushik
Additional Government Pleader (Taxes)

COMMON ORDER

Since the issue involved and the relief sought in both these Writ Petitions are identical in nature, the same were heard together and disposed of vide this common order.

2. Challenging the impugned orders dated 29.12.2023 passed by the respondent, the petitioner has filed the present Writ Petitions.

3. The learned counsel for the petitioner submitted that the notices in Form GST DRC-01A and Form GST DRC-01 along with show cause notice were raised on the petitioner's GST portal under the head "View Additional Notices and Orders" tab, as the petitioner was unaware of the GST portal, it failed to respond for the said notices, which led to the passing of the present impugned orders. He submitted that even an impugned orders were uploaded in the GST portal and the physical version of such orders were not served on the petitioner. The petitioner came to know about passing of two different orders dated 29.12.2023 for the identical issue in respect of the impugned assessment year 2017-2018, only in the second week of August 2024. Hence, he sought for

appropriate orders from this Court for affording an opportunity to the petitioner to present the case by way of filing a suitable reply and participate in the proceedings.

4. The learned counsel for the petitioner would further submit that, if an opportunity is provided, the petitioner would be able to substantiate its case and also the petitioner is ready and willing to deposit a sum of Rs.1,75,000/- in W.P.No.29640 of 2024 and a sum of Rs.25,000/- in W.P.No.29633 of 2024, out of the total disputed tax in respect of the impugned assessment period.

5. Mr.T.N.C.Kaushik, learned Additional Government Pleader (Taxes) appearing for the respondent submitted that subject to the payment of Rs.1,75,000/- in W.P.No.29640 of 2024 and Rs.25,000/- in W.P.No.29633 of 2024 respetively, out of the total disputed tax, this Court shall remand the matter to the Authority concerned for passing appropriate orders.

6. Heard the learned counsel for the petitioner as well as the learned Additional Government Pleader (Taxes) for the respondent and also perused the materials available on record.

7. Considering the above submissions made by the learned counsel on either side and upon perusal of the materials, it is evident that the impugned show cause notice was uploaded on the GST Portal Tab. According to the petitioner, the petitioner was unaware of the issuance of the show cause notice issued through the GST Portal and the original of the said show cause notice was not furnished to them. In such circumstances, this Court is of the view that the impugned orders came to be passed without affording any opportunity of personal hearing to the petitioner to establish its case, thereby violating the principles of natural justice and that it is just and necessary to provide an opportunity to the petitioner to establish their case on merits and in accordance with law.

8. For the reasons stated above, this Court is inclined to set aside the impugned orders dated 29.12.2023 passed by the respondent with the following directions:-

(i) The orders impugned herein are set aside and the matters are remanded to the respondent for fresh consideration on condition that the petitioner shall pay a sum of Rs.1,75,000/- in W.P.No.29640 of 2024 and Rs.25,000/- in W.P.No.29633 of

2024 respectively, out of the total disputed tax within a period of four weeks from the date of receipt of a copy of this order; and the setting aside of the impugned orders will take effect from the date of payment of the said amount.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks thereafter.

(iii) On filing of such reply/objection by the petitioner, the respondent shall consider the same and issue a 14 days clear notice by fixing the date for personal hearing to the petitioner and thereafter, pass appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.

9. With the above directions, these Writ Petitions are disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

22.10.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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To
The Asst. Commissioner (ST),
Annur Assessment Circle,
Coimbatore.

Krishnan Ramasamy,J.,

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W.P.No.29633 & 29640 of 2024

22.10.2024