IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.10.2024

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.29322 of 2024 &
W.M.P.Nos.31973 and 31975 of 2024

M/s.Murari Agro Tech
Represented by its Managing Partner V.A.Balamurali
Sy.No.264/4, 265/1, 2,3,4
Varadhapuram Village Road
Near Power Grid
Shoolagiri, Krishnagiri 635 117. ... Petitioner

Vs.

Assistant Commissioner of State Taxes (FAC)
Hosur North -2
CT Building, Seetharam Nagar, Bangalore Road,
Near Old Bus
Stand, Hosur. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records of the impugned order bearing reference No.GSTIN:33AASFM9211F2Z7/2018-19 dated 11.05.2024 along with its Summary in Form DRC7 bearing reference Number ZD330524073001Z passed by the respondent and quashing the same as being in violation of Section 9 and 74 (5) of the CGST Act, Section 16 of the IGST Act and in violation of Articles 14, 19(1) (g) and 265 of the Constitution.

For Petitioner : Mr.G.Natarajan

For Respondent : Mr.C.Harsha Raj
Additional Government Pleader

ORDER

This writ petition has been filed by the petitioner challenging the orders of the Respondent dated 11.05.2024 and to quash the same.

2. Mr.C.Harsha Raj, learned Additional Government Pleader (Taxes) takes notice on behalf of the Respondent.

3. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

4. The learned counsel for the Petitioner would submit thatt in the present case, initially the respondent has issued Show Cause Notice to the petitioner on 27.03.2024. pursuant to which the Petitioner approached the Respondent office and submitted a letter dated 03.05.2024 seeking extension of time to file reply, but the Respondent refused to receive the

same and asked the Petitioner to upload the letter in the GST Portal, but due to lack of knowledge about GST portal operations, the Petitioner failed to upload the same in the Portal. Thereafter, three reminders were issued by the Department through GST Portal and the Petitioner was not aware of the same. Under these circumstances, the impugned assessment order along with summary order dated 11.05.2024 came to be passed by the Respondent demanding tax along with penalty and interest for the Assessment Year 2018-2019 and the same was also uploaded in the GST portal and therefore the petitioner came to know of the said order when they approached the Respondent in person to give reply to the Show Cause Notice.

5.Further, he would submit that impugned assessment order came to be passed without affording an opportunity of hearing to the Petitioner and therefore the same is in violation of principles of natural justice. He further submitted that the demands have been made by the Respondent by taking into consideration the entire figures reflected in the balance sheet without considering the various exemptions available under Section

7 of the Central Goods and Services Act, 2017 (in short 'the Act'). He therefore prays to set aside the same.

6. On the other hand, the learned Additional Government Pleader (Taxes) would submit that the respondent uploaded the show cause notice as well as the reminder notices in the Online Portal of the Respondent. But the petitioner failed to submit reply to substantiate its case and therefore the impugned assessment order came to be passed.

7. In reply, the learned counsel for the petitioner would fairly submit that the petitioner is now ready and willing to pay a sum of Rupees Seventy Lakhs to the Respondent in the event of providing an opportunity to them to file their reply along with the required documents to substantiate their claim, for which, the learned Additional Government Pleader (Taxes) has no serious objection.

8. Heard the learned counsel for the Petitioner and the learned Additional Government Pleader (Taxes) for the Respondent and also perused the materials available on record.

9. In the present case, since the show cause notice as well as the reminder notices were uploaded in the GST Portal, the petitioner was not aware of the same and therefore they were not in a position to file reply for the show cause notice.

10. Further, it appears that no opportunity of personal hearing was provided to the Petitioner prior to the passing of impugned orders. That apart, demand has been made by taking into consideration of the balance sheet of the Petitioner Firm, without considering the exemptions available under Section 7 of the Act. Hence, this Court is of the view that the impugned orders passed is in violation of principles of natural justice and it is just and necessary to provide an opportunity to the petitioner to establish their case on merits. In such view of the matter, this Court is inclined to set aside the impugned orders dated 11.05.2024 passed by the Respondent. Accordingly, this Court passes the following order:-

(i) The impugned orders dated 11.05.2024 are set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay a sum of Rs.70,00,000/- tax to the respondent 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 of 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.

11. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

14.10.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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To

Assistant Commissioner of State Taxes (FAC)
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KRISHNAN RAMASAMY.J.,

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