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.29312 of 2024 &
W.M.P.No.31965 of 2024

M/s.DHEERA RENEWABLE ENERGY PRIVATE LIMITED,
Rep. by its Director Mr.C.C.Viswanathan Nair
GSTIN:33AAGCD2944K1ZM
Old No.108, New No.94, 13th Cross Street,
Defence Officers Colony,
Ekkattuthangal, Chennai- 600032. ... Petitioner

Vs.

The Deputy State Tax Officer-1 (ST),
Ekkatuthangal Assessment Circle
No.571, Integrated Registration and Commercial
Taxes Building, Room No.306, 3rd Floor,
Nandanam, Chennai-35. ... 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 int he file of the impugned order in GSTIN/33AAGCD2944K1ZM/2018-19 dated 08.042024 and its summary in Form DRC-07 Ref No.ZD330424059565B dated 08.04.2024 and to QUASH the same.

For Petitioner : Ms.Akila S

For Respondents : Mr.V.Prashanth Kiran
Government Advocate (Taxes)

ORDER

This writ petition has been filed by the petitioner challenging the orders of the Respondent dated 08.04.2024 and to quash the same.

2. Mr.V.Prashanth Kiran, learned Government Advocate (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 that in the present case, initially the respondent has issued Show Cause Notice to the petitioner on 18.10.2023 followed by reminder notices dated 03.02.2024, 09.02.2024 and 26.02.2024. Since the aforesaid notices were uploaded in the GST portal, the Petitioner was not aware of the same and hence they had failed to file their reply. Under these circumstances, the impugned assessment order along with summary order

dated 08.04.2024 came to be passed by the Respondent demanding tax along with penalty and interest for the Assessment Year 2018-2019. The Petitioner came to know of the impugned orders only when the officials from the Respondent office contacted the Petitioner for the recovery of the demand amount.

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 and therefore prays to set aside the same.

6. On the other hand, the learned Government Advocate (Taxes) would submit that the respondent uploaded the show cause notice as well as the reminder notices in the Online Portal. But the petitioner failed to submit reply to substantiate its case and therefore the impugned assessment order along with summary 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 10% of the disputed tax liability made by 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 Government Advocate (Taxes) has no serious objection.

8. Heard the learned counsel for the Ppetitioner and the learned Government Advocate (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. Hence, this Court is of the view that the impugned orders are passed 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 08.04.2024 passed by the Respondent. Accordingly, this Court passes the following order:-

(i) The impugned orders dated 08.04.2024 is set aside and the matter is remanded to the Respondent for fresh consideration on condition that the Petitioner shall pay 10% of disputed tax to the respondents 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

The Deputy State Tax Officer-1 (ST),
Ekkatuthangal Assessment Circle
No.571, Integrated Registration and Commercial
Taxes Building, Room No.306, 3rd Floor,
Nandanam, Chennai-35.

KRISHNAN RAMASAMY.J.,

arr

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