IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.10.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.29318 of 2024 &
W.M.P.Nos.31968 and 31969 of 2024

Tvl.S.Natesan (Civil & Road) Contractor
Represented by its Proprietor Senkottaiyan Natesan
469/1, Santhpuram,
Kaveripattinam, Krishnagiri,
Tamil Nadu- 635204. ... Petitioner

Vs.

The Assistant Commissioner (ST)
Krishnagiri-II Assessment Circle,
S.F.No.559/5, Ground Floor, Kallukurukki Village,
Saamanthamalai Post, Ramapuram (SO)
Collector office Backside
Krishnagiri- 635115. ... 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 relating to the impugned order bearing 33ACNPN833IJIZB/2017-2018 dated 11.12.2023 passed by the Respondent and quash the same as being arbitrary, passed in violation of principles of natural justice.

For Petitioner : Mr.K.Aarthy

For Respondent : Mr.G.Nanmaran (Taxes)
Special Government Pleader

O R D E R

This writ petition has been filed by the petitioner challenging the orders of the Respondent dated 11.12.2023 and to quash the same.

2. Mr.G.Nanmaran, learned Special 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 that in the present case, initially the respondent has issued Show Cause Notice to the petitioner on 30.09.2023 . 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 dated 11.12.2023 came to be passed by the Respondent demanding tax along with penalty and interest for the Assessment Year 2017-2018 and the same was also uploaded in the GST

portal and therefore the petitioner came to know of the said order belatedly from the Respondent. He further submitted that the entire tax amount has been paid by the Petitioner.

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 Special Government Pleader (Taxes) would submit that the respondent uploaded the show cause notice 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. However, he fairly submitted that entire tax amount has already been recovered.

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

8. In the present case, since the show cause notice was 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.

9. Further, it appears that no opportunity of personal hearing was provided to the Petitioner prior to the passing of impugned order. Hence, this Court is of the view that the impugned order 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 order dated 11.12.2023 passed by the Respondent. Accordingly, this Court passes the following order:-

> (i) The impugned order dated 11.12.2023 is set aside and the matter is remanded to the Respondent for fresh consideration.
>
> (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.

10. 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
arr

To

The Assistant Commissioner (ST)
Krishnagiri-II Assessment Circle,
S.F.No.559/5, Ground Floor, Kallukurukki Village,

Saamanthamalai Post, Ramapuram (SO)
Collector office Backside
Krishnagiri- 635115.

KRISHNAN RAMASAMY.J.,

arr

W.P.No.29318 of 2024 &
W.M.P.Nos.31968 and 31969 of 2024

14.10.2024