IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.09.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.28859 of 2024 &

W.M.P.Nos.31471 & 31473 of 2024

M/s.Jaisree Gas Agencies,
Rep. by its Proprietrix A.Jayalakshmi,
31/4, Antony Complex, Venkatesa Colony,
Pollachi – 642 004. ... Petitioner

Vs.

The Deputy State Tax Officer – 1,
Pollachi West Assessment Circle,
Pollachi – 642 001. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari by calling for the records of the respondent in his proceedings in GSTIN:33ATRPJ9627Q1ZP/ 2018-2019 dated 29.04.2024 and quash the same as illegal.

For Petitioner : Mr.S.Ramanathan

For Respondent : Mr.G.Nanmaran

Special Government Pleader [T]

ORDER

Challenging the impugned Order of the respondent in GSTIN: 33ATRPJ9627Q1ZP/ 2018-2019 dated 29.04.2024 and quash the same as illegal, the present writ petition has been filed.

2. According to the petitioner, she is a dealer in Indane Gas and registered under the GST Act. The respondent issued a notice in GST DRCO1 dated 28.12.2023 stating that the petitioner has availed the ineligible ITC for the purchase of motor vehicle and invalid ITC and proposed a tax of Rs.18,45,967/- interest of Rs.17,46,181 and Penalty of Rs.1,84,597 under CGST and SGST respectively. As the petitioner has no knowledge and access to the portal, she could not file her reply to the notice. The application filed by the petitioner for rectification claiming ITC for the year 2018-19 on 11.03.2020 and 04.09.2020, which is within the time limt, has been rejected by the respondent. Hence, the present writ petition.

3. Heard both sides and perused the documents enclosed in the typed set of papers. By consent of the parties, the main Writ Petition is taken up for disposal at the time of admission stage itself.

4. Though the petitioner raised very many grounds assailing the order impugned herein, the main contention of the learned counsel for the petitioner is that before passing the order impugned herein, the petitioner was not provided reasonable opportunity to submit their oral and written submissions and to file documents to substantiate their claims. Thus, according to the learned counsel, the order impugned herein is arbitrary, illegal and in violation of the principles of natural justice and hence, seeks to set aside the same. He further submits that the petitioner is ready to deposit 10% of the disputed tax demand.

5. On the other hand, the learned Special Government Pleader appearing for the respondents submitted that after analysing the facts and

circumstances of the case, the respondent has passed the order impugned. However, he fairly submits that if any order is passed by this Court, the same will be complied with by the respondent.

6. Considering the facts and circumstances of the case coupled with the submissions made by the learned counsel on either side would demonstrate that there is clear violation of principles of natural justice on the part of the respondent in passing the order impugned herein, this court passes the following order:

> [i] The order impugned herein is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay a 10% of the disputed tax liability to the respondent within a period of four weeks from the date of receipt of a copy of this order;
>
> [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 pass appropriate orders on merits and in accordance

with law, after providing an opportunity of personal hearing to the petitioner, as expeditiously as possible.

7. This writ petition is disposed of on the above terms. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

30.09.2024

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

vrc

To

The Deputy State Tax Officer – 1,
Pollachi West Assessment Circle,
Pollachi – 642 001.

KRISHNAN RAMASAMY, J.

vrc

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