IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.10.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.29323 of 2024
and
W.M.P.Nos.31974 and 31976 of 2024

Tvl.Lakshmi Tax,
(Represented by its Proprietor
Mr.Rajaprakash Arumugam),
18, Vedimarunthu Kadai Street,
Nethimedu, Salem,
Tamil Nadu- 636 002. ...Petitioner

..Vs..

The Assistant Commissioner (ST),
Annathanapatty Assessment Circle,
Integrated Commercial Tax Building,
4th Floor, Pitchards Road,
Hasthampatty, Salem- 636 007. ... Respondent

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records on the files of the Respondent herein in FORM GST DRC-07 with Reference No:ZD3312231466799 dated 20.12.2023 along with detailed order in GSTIN:33ASHPR1376F1ZQ/2017-18 dated 20.12.2023, for the assessment period 2017-18 and quash the same.

For Petitioner : Mr.N.Chandrasekar

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

ORDER

The challenge in this writ petition is to the orders dated 20.12.2023 passed by the Respondent 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 time of admission stage itself.

4. The learned counsel for the petitioner submits that the Respondent issued show cause notice dated 25.09.2023, for which the Petitioner submitted its reply on 25.11.2023, but the Respondent without considering the same and without providing an opportunity of hearing to the Petitioner proceeded to pass the impugned assessment order along with summary order dated 20.12.2023 and the same was uploaded in the GST Portal. Since the accountant of the Petitioner's Firm had not noticed the said orders, the Petitioner was not aware of the same. The Petitioner came to know of the said order only during the third

week of June 2024. He therefore would submit that impugned orders passed are in violation of principles of natural justice and therefore prays to set aside the same.

5. On the other hand, the learned Government Advocate (Taxes) would submit that the respondent initially the Respondent issued notice dated 26.04.2023, for which the Petitioner requested 10 days to furnish reply, but since no reply was filed, again notice dated 25.07.2023 was issued to the Petitioner to explain the reasons for discrepancies and since no reply was received, another Show Cause Notice dated 25.09.2023 was issued and time was granted till 10.10.2023 to produce all the documents and that apart opportunity of personal hearing was also granted on 05.10.2023 to the Petitioner, for which the Petitioner submitted its reply and only after considering the same impugned orders dated 20.12.2023 came to be passed and therefore the same principles of natural justice have been duly complied with.

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

7. A perusal of the impugned assessment order would go to show that even prior to the issuance of the Show Cause Notice, the Respondent issued notice dated 26.04.2023, for which the Petitioner requested 10 days to furnish reply, since no reply was filed, again notice dated 25.07.2023 was issued to the Petitioner to explain the reasons for discrepancies and since no reply was received, another Show Cause Notice dated 25.09.2023 was issued and time was granted till 10.10.2023 to produce all the documents and that apart opportunity of personal hearing was also granted on 05.10.2023 to the Petitioner, for which the Petitioner submitted its reply and only after considering the same impugned orders dated 20.12.2023 came to be passed. Therefore this Court is not inclined to accept the submission of the learned counsel for the Petitioner.

8. In view of the same, this Writ Petition is dismissed, with liberty to the Petitioner file an appeal before the Appellate authority within a period of thirty days from the date of receipt of a copy of this order and if such Appeal is filed, the Appellate authority shall take the Appeal on file without insisting on the period of limitation. No costs. Consequently, connected Miscellaneous Petitions are closed.

14.10.2024

Speaking/Non-speaking order

Index : Yes / No
Neutral Citation : Yes / No
arr

To

The Assistant Commissioner (ST),
Annathanapatty Assessment Circle,
Integrated Commercial Tax Building,
4th Floor, Pitchards Road,
Hasthampatty, Salem- 636 007.

Krishnan Ramasamy,J.,
arr

W.P.No.29323 of 2024

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