IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.10.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.29379 of 2024 &
W.M.P.Nos.32016 and 32017 of 2024

UNITED MACHINES INC.
Represented by its Proprietor
Sri. Palanisamy
No.19/12/AVP Layout
Padmavathipuram, 5th Street
Tirupur - 641 603. ... Petitioner

Vs.

1. The Deputy Commercial Tax Officer-1
(Deputy State Tax Officer-1)
(North-2 Assessment Circle)
Tirupur-1.

2. Assistant Commissioner (ST)
Audit Team-14
Palladam-1 Circle, Tirupur-III
Tirupur. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records on the files of the First Respondent herein GSTIN:33ALSPP7847B1ZZR/2018-19 in proceedings dated 04.04.2024 and quash the same.

For Petitioner : Mr.R.Vasumithran

For Respondent : Ms.Amirthapoonkodi Dinakaran
Government Advocate (Taxes)

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ORDER

This writ petition has been filed by the petitioner challenging the order of the Respondent dated 04.04.2024 and to quash the same.

2. Ms.Amirtha Poonkodi Dinakaran, learned Government Advocate (Taxes) takes notice on behalf of the respondents.

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 respondents issued Show Cause Notice on 29.12.2023, followed by reminder notices to the petitioner. Since the same was uploaded in the "Additional Notices and Orders" column in the GST portal, the Petitioner was not aware of the same and hence they

failed to file their reply. Under these circumstances, the impugned assessment order dated 04.04.2024 came to be passed by the 1st Respondent demanding tax along with penalty and interest for the Assessment Year 2018-2019 and the same was also uploaded in the GST Portal. The Petitioner came to know of the notices as well as impugned order belatedly.

5.Further, he would submit that impugned 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 reminder notices in the GST Online Portal. 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 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 petitioner and the learned Government Advocate (Taxes) for the respondents and also perused the materials available on record.

9. In the present case, since the show cause notice as well as the reminder notices 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.

10. 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 is 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 order dated 04.04.2024 passed by the 1st Respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 04.04.2024 is set aside and the matter is remanded to the respondents 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 order 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

1. The Deputy Commercial Tax Officer-1
   (Deputy State Tax Officer-1)
   (North-2 Assessment Circle)
   Tirupur-1.

2. Assistant Commissioner (ST)
   Audit Team-14
   Palladam-1 Circle, Tirupur-III
   Tirupur.

KRISHNAN RAMASAMY.J.,

arr

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