IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.10.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.29429 of 2024 &
W.M.P.Nos.32070 and 32071 of 2024

Mr.S.Saravanan,
Prop: SREE VENKATESWARA CONSTRUCTIONS,
Plot No.3, Vishnu Nagar Main Road,
Ponniammanmedu, Madhavaram,
Chennai-600110. ... Petitioner

Vs.

The State Tax Officer, Group II,
INTELLIGENCE -11,
Chennai- 600 006. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records of the Respondent in Reference No.ZD330724170402N dated 13.07.2024 for the F.Y.2022-23 and quash the same and a direction to the respondent to provide an opportunity to the petitioner for the purpose of adjudicating the issue.

For Petitioner : Mr.R.Swarnavel

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 13.07.2024 and to quash the same and a direction to the respondent to provide an opportunity to the petitioner for the purpose of adjudicating the issue.

2. Ms.Amirtha Poonkodi Dinakaran, 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 1st respondent conducted inspection at Petitioner's premises on 16.11.2023 and notified 14 defects vide notice dated 22.02.2024 for the Assessment Year 2022-2023, for which the Petitioner sent a reply dated 06.03.2024 seeking time to file reply along

with appropriate documents. But, the 1st Respondent without considering the same has issued Show Cause Notice dated 01.04.2024 and subsequently passed the impugned order dated 13.07.2024.

5.Further, he would submit that impugned order came to be passed without considering the reply filed by the Petitioner to the notic dated 20.02.2024 and 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 respondents issued the show cause notice as well as the personal hearing notice to the Petitioner. But the petitioner failed to submit reply and appear before the Respondents 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, the petitioner already filed a reply to the notice dated 20.02.2024 seeking time and without considering the same show cause notice followed by impugned order came to be passed.

10. 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 13.07.2024 passed by the 1st Respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 13.07.2024 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

The State Tax Officer, Group II,
INTELLIGENCE -11,
Chennai- 600 006.

KRISHNAN RAMASAMY.J.,

arr

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