IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.10.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.30637 of 2024
and
W.M.P.Nos.33239 and 33241 of 2024

M/s.SHRI GOWTHAM JEWELLERY
Reptd. by its Proprietrix,
G.Santhoshbai, W/o.Gowtham Chand,
No.1, Thirumalaiyar Pillai Street,
Uthiramerur, Kancheepuram District. ...Petitioner

Vs.

The Deputy State Tax Officer-1,
Maduranthagam Assessment Circle,
No.15/9, Car Street,
Maduranthagam,
Chengalpet District. ... 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 pertaining to the impugned order dated 31.12.2023 passed by the Respondent herein for the Assessment Year 2017-2018 bearing Registration of the GSTIN-33ATXPS1427K1Z4 and quash the same as illegal and against the principles of natural justice.

For Petitioner : Mr.K.M.Malarmannan

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

ORDER

This Writ Petition has been filed to call for the records of the Respondent dated 31.12.2023 and to quash the same.

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 time of admission stage itself.

4. The learned counsel for the Petitioner submits that the Respondent issued Show Cause Notice dated 20.09.2023, followed by Summary of Show Cause Notice dated 30.09.2023 to the Petitioner and the same were uploaded in the GST Portal. Since the Registration of the Petitioner has already been cancelled on 09.03.2022, the Petitioner had not viewed the same. Under such circumstances, impugned assessment order dated 31.12.2023 came to be passed demanding tax along with interest and penalty for the Assessment Year

2017-18 and the same was also uploaded in the GST portal. The Petitioner came to know of the said order from the Respondent belatedly.

5. Further, she 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. The learned Government Advocate (Taxes) appearing for the Respondent submitted that though the Show Cause Notice followed by summary to Show Cause Notice were issued to the Petitioner by uploading the same in the GST Portal, the Petitioner failed to submit its reply and therefore impugned assessment order came be passed.

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

8. In the present case, since the registration of the Petitioner was cancelled as early as on 09.03.2022, the Petitioner had not viewed the Show Cause Notice as well as the summary of Show Cause Notice and hence could not file reply. Under such circumstances, the Respondent passed the impugned order.

9. Further, it appears that opportunity of personal hearing was not granted to the Petitioner prior to 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 assessment order dated 31.12.2023 passed by the Respondent. Accordingly, 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 10% of disputed tax to the Respondent 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.

10. Accordingly, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

19.10.2024

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

<u>Krishnan Ramasamy,J.,</u>

arr

To

The Deputy State Tax Officer-1,
Maduranthagam Assessment Circle,
No.15/9, Car Street,
Maduranthagam,
Chengalpet District

<u>W.P.No.30637 of 2024</u>

19.10.2024