IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.10.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.29759 of 2024
& W.M.P.Nos.32435 & 32437 of 2024

Tvl.MKG.Enterprises,
Represented by its Managing Partner,
M.Karunanithi,
1/289, Namakkal Main Road,
Kumaramangalam,
Tiruchengode, Namakkal,
Tamil Nadu 637 205

... Petitioner

Vs.

The Assistant Commissioner (ST),
Tiruchengode (Rural)

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the respondent bearing No.ZD3311231304119 dated 21.11.2023 and the impugned summary directing the petitioner to pay a sum of Rs.12,28,474/- tax along with interest Rs.14,77,306 and penalty of Rs.1,22,847/- totalling to Rs.28,28,627/- along with interest and penalty to quash the same and direct the respondent not to enforce the impugned order issued by the respondent.

For Petitioner	:	Ms.S.Gayathri
For Respondent	:	Mr.T.N.C.Kaushik, Additional Government Pleader

ORDER

This writ petition has been filed challenging the impugned order dated 21.11.2023 passed by the respondent.

2. Mr.T.N.C.Kaushik, learned Additional Government Pleader, takes notice on behalf of the respondent. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that all notices/communications were uploaded by the respondent in the GST portal. Since the petitioner was not aware of the said notices, they failed to file their reply within the time. Under these circumstances, the impugned order came to be passed by the respondent without providing

any opportunity of personal hearing to the petitioner. Hence, this petition has been filed. Further, she would submit that the petitioner had already paid the entire tax amount.

4. On the other hand, the learned Additional Government Pleader appearing for the respondent would submit that the respondent has uploaded the notices in the GST Online Portal. But the petitioner failed to avail the said opportunity. Further, he has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, he requested this Court to remit the matter back to the respondent.

5. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent and also perused the materials available on record.

6. In the case on hand, 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 was passed in violation of principles of natural justice since it is just and necessary to provide an opportunity to the petitioner to establish their case on merits. Further, it was submitted that the petitioner has already paid the tax amount to the respondent. In such view of the matter, this Court is inclined to set aside the impugned order dated 21.11.2023 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 21.11.2023 is set aside and the matter is remanded to the respondent for fresh consideration.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of three weeks from the date of receipt of copy of this order.

(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.

7. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

15.10.2024

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

To

The Assistant Commissioner (ST),
Tiruchengode (Rural)

KRISHNAN RAMASAMY.J.,

nsa

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