IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.10.2024

CORAM

**THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY**

**W.P.No.29770 of 2024**
**and**
**W.M.P.Nos.32453 & 32454 of 2024**

Tvl.Baba Meditech,
F4, Flat, Purple Square,
PVS Garden, Nanjundapuram Road,
Ramanathapuram, Coimbatore
Tamil Nadu 641 045
Represented by the Partner,
Mrs.Rashmi Nanda.

... Petitioner

**Vs.**

1.The Deputy State Tax officer-2,
Trichy Road Circle, CTO Complex,
Dr.Balasundaram Road,
Coimabtore 641 018.

2.The Assistant Commissioner (ST),
Trichy Road Circle, CTO Complex,
Dr.Balasundaram Road,
Coimbatore 641 018.

... Respondents

**Prayer:**

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records pertaining to the impugned order passed by the 1st respondent vide his proceedings in Ref.No.ZD331223021655T dated 05.12.2023 GSTIN: 33AAPFB8066J1Z2/2017-18 dated 05.12.2023 and the attachment/recovery proceedings initiated by the 2nd respondent vide the letter dated 15.05.2024 under GST DRC-13 dated 15.05.2024 and quash the same.

For Petitioner : Mr.K.Sankaranarayanan

For Respondent : Mr.V.Prashanth Kiran,
Government Advocate

**ORDER**

This writ petition has been filed challenging the impugned order dated 05.12.2023 passed by the respondent.

2. Mr.V.Prashanth Kiran, learned Government Advocate, 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 the petitioner's registration was cancelled in the year 2021. Thereafter, all notices/communications were uploaded by the respondent under the column, viz., "View Additional Notices and Orders", 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. He would also submit that subsequent to the impugned order, the tax amount was already recovered vide the attachment/recovery proceedings initiated by the 2$^{nd}$ respondent on 15.05.2024.

4. Further, he would submit that the petitioner had also filed an appeal and the same is pending before the respondent. However, since the Appellate Authority has no power to remit the matter back to the respondent for re-consideration, he seeks liberty to withdraw the appeal filed before the Appellate Authority and requests this Court to set aside

the impugned order and provide an opportunity to the petitioner to establish their case to the respondent.

5. On the other hand, the learned Government Advocate 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.

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

7. In the case on hand, 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 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. In such view of the matter, this Court is inclined to set aside the impugned order dated 05.12.2023 passed by the respondent. In such case, the petitioner is entitled to withdraw the appeal filed before the Appellate Authority since it becomes infructuous. Accordingly, this Court passes the following order:-

> (i) The impugned order dated 05.12.2023 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.

8. 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

1.The Deputy State Tax officer-2,
Trichy Road Circle, CTO Complex,
Dr.Balasundaram Road,
Coimabtore 641 018.

2.The Assistant Commissioner (ST),
Trichy Road Circle, CTO Complex,
Dr.Balasundaram Road,
Coimbatore 641 018.

**KRISHNAN RAMASAMY.J.,**

nsa

**W.P.No.29770 of 2024**
**& W.M.P.Nos.32453 & 32454 of 2024**

**15.10.2024**