IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.10.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.29096 of 2024 &

W.M.P.Nos.31758 & 31759 of 2024

M/s.S.R.Traders,
Rep. by its Prop. V.Rajasekaran,
110-A, Rathinam Complex,
Rajamill Road, Pollachi – 642 001. ... Petitioner

Vs.

The Deputy State Tax Officer – 1,
Pollachi [West] Assessment Circle,
Pollachi – 600 102. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari by calling for the records of the respondent in his proceedings in GSTIN:33AHTPR7211G1Z5/2018-2019 dated 29.04.2024 and quash the same as illegal.

For Petitioner : Mr.S.Ramanathan

For Respondent : Mr.G.Nanmaran

Special Government Pleader [T]

ORDER

Challenging the impugned Order of the respondent in proceedings in GSTIN:33AHTPR7211G1Z5/2018-2019 dated 29.04.2024 and quash the same as illegal, the present writ petition has been filed.

2. According to the petitioner, they are dealier in saw dust and coconut shell powder. The petitioner's registration certificate was cancelled with effect from 28.12.2023. While so, the respondent issued a notice in Form GST DRC-01 dated 26.12.2023 stating that the petitioner has not declared the correct turnover in the annual return GSTR 09 and the petitioner has not correctly availed the ITC on the inward supply and proposed to levy a tax of Rs.2,55,866/-, penalty of Rs.25,587 and interest of Rs.2,41,257/- under CGST and SGST respectively. The respondent has also levied a tax of Rs.1,06,373/- Penalty of Rs.10,637/- and inerest of Rs.1,00,300/- under IGST. Since the registration of the petitioner has been cancelled, he has no access to the portal and was not aware of the notice and has not filed the reply. In

such circumstances, the respondent ought to have served the notice physically to the petitioner to enable him to file the reply. The respondent without giving proper opportunity has simply confirmed the proposal by an Order dataed 29.04.2024 which is arbitray and unjustified. Challenging the same, the petitioner is before this court with the present writ petition.

3. Heard both sides and perused the documents enclosed in the typed set of papers. By consent of the parties, the main Writ Petition is taken up for disposal at the time of admission stage itself.

4. Though the petitioner raised very many grounds assailing the order impugned herein, the main contention of the learned counsel for the petitioner is that before passing the order impugned herein, the petitioner was not provided reasonable opportunity to submit their oral and written submissions and to file documents to substantiate their claims. Thus, according to the learned counsel, the order impugned herein is arbitrary, illegal and in violation of the principles of natural

justice.

5. On the other hand, the learned Additional Government Pleader appearing for the respondents submitted that after analysing the facts and circumstances of the case, the respondent has passed the order impugned.

6. Considering the facts and circumstances of the case coupled with the submissions made by the learned counsel on either side would demonstrate that there is clear violation of principles of natural justice on the part of the respondent in passing the order impugned herein, 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 a 10% of the disputed tax liability to the respondent within a period of four weeks from the date of receipt of a copy of this order;

[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 pass appropriate orders on merits and in accordance with law, after providing an opportunity of personal hearing to the petitioner, as expeditiously as possible.

7. This writ petition is disposed of on the above terms. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

01.10.2024

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

vrc

To

The Deputy State Tax Officer – 1,
Pollachi [West] Assessment Circle,
Pollachi – 600 102.

KRISHNAN RAMASAMY, J.

vrc

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