IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.10.2024

Coram

The Honourable Mr.Justice KRISHNAN RAMASAMY

W.P.No.30245 of 2024
and W.M.P.Nos.32931 & 32933 of 2024

Tvl.ABC & Company Limited,
Represented by its Director,
Mr.Brijesh Bhaskaran,
No.3, MIG-3, Adivinar, Near Police Station,
GANDHIMA NAGAR, Peelamedu,
Coimbatore, Tamil Nadu – 641 004.

...Petitioner

Versus

Assistant Commissionerate (ST),
Peelamedu North Assessment Circle,
Coimbatore.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records of the respondent in order dated 22.04.2024 in GSTN: 33AAMFM1186F2ZB-2018-2019 for the FY-2018-19 and quash the same as illegal, arbitrary and in violation of the principles of natural justice.

For Petitioner	:	Mr.Ramesh Kumar Chopra
For Respondent	:	Ms.Amirta Poonkodi Dinakaran, Government Advocate (Tax)

ORDER

Ms.Amirta Poonkodi Dinakaran, learned Government Advocate (Tax) takes notice for the respondent.

2. With the consent of both sides, this writ petition is taken up for final disposal at the admission stage itself.

3. The present writ petition has been filed by the petitioner challenging the impugned order dated 22.04.2024 passed by the respondent.

4. The learned counsel for the petitioner submitted that the respondent had issued the Notice in Form DRC – 01 dated 29.12.2023 for the tax period April 2018 – March 2019, directing the petitioner to pay a sum of Rs.7,89,958/- by 22.07.2024. Further, the respondent had issued Personal Hearing Notices dated 11.03.2024 & 19.03.2024 respectively, in this regard. Subsequently, the respondent has passed the impugned order dated 22.04.2024, alleging that there was a difference between GSTR-3B and GSTR-2B. All the notices and impugned order were uploaded in the "View Additional Notices and Orders" tab of the GST portal and the

petitioner's Accountant had failed to notice the same. Hence, the petitioner was unaware of the proceedings. Prior to the issuance of the impugned assessment order, the respondent did not provide an opportunity of hearing to the petitioner to put forth their case. Therefore, the learned counsel prayed this Court to quash the impugned assessment order.

5. On the other hand, the learned Government Advocate (Tax) appearing for the respondent submitted that the matter may be remanded back to the respondent for fresh consideration on condition that the petitioner shall pay 10% of the disputed tax amount.

6. Heard the learned counsel for the petitioner as well as the learned Government Advocate (Tax) appearing for the respondent and perused the materials available on record.

7. As far as this case is concerned, without providing an opportunity of hearing to the petitioner, the respondent has passed the impugned assessment order, which is in violation of the principles of natural justice. Therefore, this Court is of the opinion that the impugned assessment order is

ought to be quashed and an opportunity of personal hearing has to be afforded to the petitioner to establish their case.

8. Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, this Court feels that it would be appropriate to issue the following directions:

(i) The impugned assessment order dated 22.04.2024 passed by the respondent is quashed and the matter is remanded back to the respondent for fresh consideration on condition that the petitioner shall pay 10% of the disputed tax amount to the respondent, within a period of four weeks from the date of receipt of a copy of this order. After making such payment, the petitioner shall produce the payment proof before the respondent.

(ii) It is made clear that quashing of the impugned order will come into effect, only from the date of payment of 10% of the disputed tax amount by the petitioner.

(iii) The petitioner is directed to file their Reply/Objection along with the required documents, if any, within a period of two weeks thereafter.

(iv) On production of aforesaid payment proof, the respondent shall consider the petitioner's Reply/Objection and pass appropriate orders, on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner, as expeditiously as possible.

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

17.10.2024

mrr

Index : Yes/No

Speaking Order (or) Non-Speaking Order

To

Assistant Commissionerate (ST),
Peelamedu North Assessment Circle,
Coimbatore.

KRISHNAN RAMASAMY, J.

mrr

W.P.No.30245 of 2024

17.10.2024