IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.10.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.29735 of 2024
and
W.M.P.Nos.32399 & 32400 of 2024

Tvl.Sri Krishna Granites,
Rep. by its Proprietor B.S.Ravi,
369/2, Chandarapalli,
Thiruvannamalai Main Road, Anchoor,
Krishnagiri-635 001.

... Petitioner

Vs.

1. The Assistant Commissioner (ST),
Krishnagiri-2 Assessment Circle,
Krishnagiri-635 001.

2. The Deputy State Tax Officer-I,
Krishnagiri-2 Assessment Circle,
Krishnagiri-635 001.

... Respondents

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the impugned order of the 2nd Respondent in GST:33ADCPR7185C1ZL dated 29.12.2023 and the consequential summary of order in Ref.No.ZD331223253658D dated 29.12.2023 and quash the same and consequently direct the Respondent to entertain the records, documents and reply from the petitioner and then pass order after affording a personal hearing to the petitioner.

For Petitioner : Mr.M.Hariharan

For Respondents : Ms.Amirtapoonkodi Dinakaran, Government Advocate (Taxes)

ORDER

Challenging the order dated 29.12.2023 passed by the second respondent, the petitioner has filed the present Writ Petition.

2. Ms.Amirtapoonkodi Dinakaran, learned Government Advocate (Taxes) takes notice on behalf of the respondents.

3. By consent of the parties, the main Writ Petition is taken up for disposal at the admission stage itself.

4. The learned counsel for the petitioner submitted that the notices were raised on the petitioner in the GST portal under the head "view additional notices and orders column", as the petitioner was unaware of the same, he failed to respond the said notices. He would further submit that even an impugned order was uploaded in the GST portal under the head "View additional notices and orders column" and the physical version of such order was not served on the petitioner. The petitioner came to know about the impugned proceedings

through the petitioner's Banker by way of freezing the Bank account of the petitioner, vide communication dated 19.07.2024 and the entire amount lying in petitioner's account has been recovered by the respondents. Hence, he sought for appropriate orders from this Court to remand the matter to the Authority concerned for fresh consideration.

5. Heard the learned counsel for the petitioner as well as the learned Government Advocate (Taxes) for respondents and perused the materials available on record.

6. Considering the above submissions made by the learned counsel on either side and upon perusal of the materials, it is evident that the impugned show cause notice was uploaded on the GST Portal Tab. According to the petitioner, the petitioner was not aware of the issuance of the show cause notice issued through the GST Portal and the original of the said show cause notice was not furnished to them. In such circumstances, this Court is of the view that the impugned order came to be passed without affording an opportunity of personal hearing to the petitioner to establish its case, thereby violating the principles of natural justice and that it is just and necessary to provide an opportunity to the petitioner to establish their case on merits and in accordance

with law.

7. For the reasons stated above, this Court is inclined to set aside the impugned order dated 29.12.2023 passed by the second respondent, with the following directions:-

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

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

(iii) On filing of such reply/objection by the petitioner, the second respondent shall consider the same and issue a 14 days clear notice to the petitioner by fixing the date for personal hearing and thereafter, pass appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.

(iv) Considering the fact that the impugned order itself has been set aside, this Court is of the opinion that the attachment of the petitioner's Bank account cannot survive any longer and hence, it is ordered to be lifted. The first respondent is directed to instruct the concerned Bank to de-freeze the petitioner's Bank account immediately upon the production of a copy of this order, in case the petitioner's Bank account is attached.

8. With the above directions, this Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

04.10.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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To
1. The Assistant Commissioner (ST),
Krishnagiri-2 Assessment Circle,
Krishnagiri-635 001.

2. The Deputy State Tax Officer-I,
Krishnagiri-2 Assessment Circle,
Krishnagiri-635 001.

Krishnan Ramasamy,J.,
jd

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