IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.10.2024

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.29517 of 2024 &
W.M.P.Nos.32174 and 32175 of 2024

M/s.Home Needs
Represented by its Partner,
Mr.Sivakumar Sadhasivam,
Earlier address No.63 Veerapuram
Mahindra World, Chengalpattu,
Tamil Nadu 603002, Now Residing at
5/2, NH2 Vasugiyar Street,
Maraimalai Nagar, Tamil Nadu 603 209. ... Petitioner

Vs.

The Assistant Commissioner (ST),
Chengalpattu Assessment Circle,
16A, First Floor, First Main Road,
Anna Nagar, Chengalpattu 603001. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records leading to the issuance of Order reference No.ZD330424238447E dated 28.04.2024 FORM DRC-07 along with connected proceedings reference number GSTIN:33AAIFH6871J1Z2/2018-19 dated 29.04.2024, by the Respondent herein and quash the same, and direct the Respondent to consider the matter afresh, after giving full and fair opportunity to the Petitioner to submit its reply and after affording opportunity of personal hearing to the Petitioner.

For Petitioner : Mr.T.C.Prakash

For Respondent : Mr.T.N.C.Kaushik
Additional Government Pleader (Taxes)

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ORDER

This writ petition has been filed by the petitioner challenging the impugned order dated 28.04.2024 and to quash the same and direct the Respondent to consider the matter afresh, after giving full and fair opportunity to the Petitioner to submit its reply and after affording opportunity of personal hearing to the Petitioner.

2. Mr.T.N.C.Kaushik, learned Additional Government Pleader (Taxes) takes notice on behalf of the Respondent.

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 would submit that in the present case, initially the Respondent issued Show Cause Notice on 28.12.2023 for which the Petitioner submitted its reply on 29.01.2024, but the Respondent without considering the same has passed the impugned order dated 29.01.2024 demanding ax along with interest and penalty for the Assessment Year 2018-2019.

5.Further, he would submit that impugned order came to be passed without affording an opportunity of hearing to the Petitioner and therefore the same is in violation of principles of natural justice and therefore prays to set aside the same.

6. On the other hand, the learned Additional Government Pleader (Taxes) fairly agreed that the Respondent had not considered the reply submitted by the Petitioner, before passing impugned order and if the matter is remanded back to the Respondent, the reply of the Petitioner will be considered and appropriate orders will be passed.

7. Heard the learned counsel for the petitioner and the learned Additional Government Pleader (Taxes) for the respondent and also perused the materials available on record.

8. In the present case, without considering the reply submitted by the Petitioner and without providing an opportunity of hearing to the Petitioner, impugned order came to be passed.

9. Hence, this Court is of the view that the impugned order is passed in violation of principles of natural justice and 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 29.04.2024 passed by the Respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 28.04.2024 is set aside and the matter is remanded to the respondent for fresh consideration.

(ii) The petitioner shall file their additional 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 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.

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

14.10.2024

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

The Assistant Commissioner (ST),
Chengalpattu Assessment Circle,
16A, First Floor, First Main Road,

Anna Nagar, Chengalpattu 603001.

KRISHNAN RAMASAMY.J.,

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W.P.No.29517 of 2024

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