IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.10.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.29731 of 2024
and
W.M.P.Nos.32389 & 32392 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 State Tax Officer (Intelligence) Hosur,
Intelligence,
Hosur.

... 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 30.03.2024 and the consequential summary of order in Ref.No.ZD3303242132134 dated 30.03.2024 and quash the same and consequently direct the 2nd Respondent to rectify the arithmetic error in the summary of the order dated 30.03.2024.

For Petitioner : Mr.M.Hariharan

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

ORDER

Challenging the order dated 30.03.2024 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 second respondent has issued DRC-01A on 31.07.2023 to the petitioner, stating that are certain discrepancies in the returns filed by the petitioner and directed to furnish the documents for the assessment year 2018-2019. However, no reply was filed by the petitioner, and, therefore, the second respondent issued Form DRC-01 on 01.12.2023 and directed to file the reply within 30 days from the date of issuance of said notice and also provided an opportunity of personal hearing.

Upon receipt of such notice, the petitioner's accountant inadvertently, instead of filing a detailed reply to the notice dated 01.12.2023 has uploaded the DRC-03 payment receipt for the tax on Seigniorage charge paid to the mining authority. Therefore, the second respondent proceeded to pass the assessment order on exparte on the basis of non-filing of reply. The petitioner came to know about the impugned proceedings from the petitioner's Banker only, on account of recovery proceedings. The first respondent has issued a notice in Form GST DRC-13 on 19.07.2024 to the petitioner's Banker 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 submissions made by the learned counsel on either side, and in view of the fact that the petitioner's accountant inadvertently instead of filing a detailed reply to the notice dated 01.12.2023 has uploaded the DRC-03 payment receipt, which led to the passing of the present impugned order

dated 30.03.2024. In such circumstances, this Court is of the view that the impugned order came to be passed without affording any opportunity of personal hearing to the petitioner to establish their 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. Accordingly, this Court passes the following orders:

(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 State Tax Officer (Intelligence) Hosur,
Intelligence,
Hosur.

Krishnan Ramasamy,J.,
jd

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