IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.10.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.Nos.29782, 29785 & 29789 of 2024
and
W.M.P.Nos.32469, 32472, 32473, 32474, 32477 & 32479 of 2024

MJ Agencies,
Represented by its Proprietor,
Mymoona Jan,
31, VOC Nagar, Pulianthope,
Chennai-600 012.
...Petitioner in W.P.Nos.29782 & 29789 of 2024

Mother Maria Enterprises,
Represented by its Proprietor,
Jesintha,
No.10, Amirthammal Nagar Seethapathy Street,
1st Street, Lotus Colony, Madhavaram,
Chennai-600 060.
...Petitioner in W.P.No.29785 of 2024

Vs.

Deputy State Tax Officer-II,
Pursawakkam Assessment Circle,
No.F/50, First Floor, First Avenue,
Anna Nagar (East), Chennai-102,
Presently at No.1, Greams Road,
Chennai-600 006.
... Respondent in W.P.No.29782 of 2024

The Assistant Commissioner (ST), FAC,

Madhavaram Assessment Circle,
No.32, Integrated Commercial Taxes Office Complex,
Elephant Gate Bridge Road,
Chennai-600 003. ... Respondent in W.P.No.29785 of 2024

State Tax Officer,
Purasawakkam Assessment Circle,
No.F/50, First Floor, First Avenue,
Anna Nagar (East), Chennai 102,
Presently at No.1, Greams Road,
Chennai 600 006. ... Respondent in W.P.No29789 of 2024

Prayer in W.P.29782/2024: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the impugned order of the respondent passed in GSTIN: 33BBDPM6596A1ZR/2017-18 dated 29.12.2023 and quash the same.

Prayer in W.P.29785/2024: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the impugned order of the respondent passed in GSTIN: 33AMAPC5712H2ZN/2017-18 dated 25.09.2023 and quash the same.

Prayer in W.P.29789/2024: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the impugned order of the respondent passed in GSTIN: 33BBDPM6596A1ZR/2018-19 dated 29.04.2024 and quash the same.

Appearance in all W.P.s'

For Petitioners : Mr.R.Kumar

For Respondents : Mr.T.N.C. Kaushik,
Additional Government Pleader (T)

COMMON ORDER

Since the issue involved and the relief sought in all these Writ Petitions are identical in nature, the same were heard together and disposed of vide this common order.

2. Challenging the impugned orders dated 25.09.2023, 29.12.2023 and 29.04.2024 passed by the respondents, the petitioners have filed the present Writ Petitions.

3. The learned counsel for the petitioners submitted that the show cause notices raised on the petitioners in the GST common portal under the head “View additional notices/orders tab”, as the petitioners were unable to file their reply for the reason that the Chartered Accountant, who had an access to portal as well who knows the password, failed to bring them about the show cause notices issued by the department. Further, he would submit that even the impugned orders were also uploaded on the GST portal and the physical version

of such orders were not served on the petitioners. It is also submitted that, if an opportunity is provided, the petitioners would be able to substantiate its case and also the petitioners agrees to make a payment of 10% of the disputed tax demand in respect of the impugned assessment period.

4. Mr.T.N.C.Kaushik, learned Additional Government Pleader (Taxes) appearing for the respondents would submit that subject to the deposit of 10% of the disputed tax by the petitioners in respect of the impugned assessment period, this Court can remand the matter to the Authority concerned for passing appropriate orders.

5. Heard the learned counsel for the petitioners as well as the learned Additional Government Pleader for the 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 notices were uploaded on the GST Portal Tab. According to the petitioners, the petitioners were unaware of the issuance of the show cause notices issued through the GST Portal and the original of the said show cause

notices were not furnished to them. In such circumstances, this Court is of the view that the impugned orders came to be passed without affording any opportunity of personal hearing to the petitioners to establish its case, thereby violating the principles of natural justice and that it is just and necessary to provide an opportunity to the petitioners 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 orders dated 25.09.2023, 29.12.2023 and 29.04.2024 passed by the respondents with the following directions:-

(i) The orders impugned herein are set aside and the matter is remanded to the concerned respondent for fresh consideration on condition that the petitioners shall deposit 10% of the disputed tax in respect of the each impugned assessment period to the concerned respondent within a period of four weeks from the date of receipt of a copy of this order; and the setting aside of the impugned orders will take effect from the date of payment of the said amount.

(ii) The petitioners 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 petitioners, the concerned respondents shall consider the same and issue a 14 days clear notice by fixing the date for personal hearing to the petitioners and thereafter, pass appropriate orders on merits and in accordance with law, after hearing the petitioners, as expeditiously as possible.

8. With the above directions, these Writ Petitions are 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
jd

To
1. Deputy State Tax Officer-II,
Pursawakkam Assessment Circle,
No.F/50, First Floor, First Avenue,
Anna Nagar (East), Chennai-102,
Presently at No.1, Greams Road,
Chennai-600 006.

2. The Assistant Commissioner (ST), FAC,
Madhavaram Assessment Circle,
No.32, Integrated Commercial Taxes Office Complex,
Elephant Gate Bridge Road,
Chennai-600 003.

3. State Tax Officer,
Purasawakkam Assessment Circle,
No.F/50, First Floor, First Avenue,
Anna Nagar (East), Chennai 102,
Presently at No.1, Greams Road,
Chennai 600 006.

Krishnan Ramasamy,J.,
jd

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