IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.10.2024

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.30761 of 2024 &
W.M.P.Nos.33367 and 33368 of 2024

RAJESHWARI INTERIORS,
Represented by its Proprietor Mrs.V.Rajeshwari,
No.14, 24th Street, Thillaiganga Nagar,
Nanganallur, Chennai – 600 061. ... Petitioner

Vs.

The Deputy State Tax Officer-2,
Nanganallur Assessment Cricle,
No.571, Integrated Commercial Taxes and Registration
Department, (South Tower),
Room No.224, 2nd Floor,
Anna Salai, Nandanam,
Chennai – 600 035. ... 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 Respondent Demand Order made in No.ZD330424247478277 DATED 30.04.2024 and quash the same and consequently direct the respondent to give an opportunity of personal hearing.

For Petitioner : Mr.I.M.Siddartha Ramarajan

For Respondent : Mrs.G.Nanmaran
Special Government Pleader (Taxes)

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ORDER

This writ petition has been filed by the petitioner challenging the orders of the Respondent dated 30.04.2024 and to quash the same and consequently direct the Respondent to provide an opportunity of personal hearing.

2. Mr.G.Nanmaran, learned Special 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 has issued Show Cause Notice to the Petitioner on 29.01.2024 and the same was uploaded in the

"Additional Notices and Orders" column in the GST portal. Since the Proprietor of the Petitioner Firm is not well-versed in technology, the Petitioner was not aware of the same and hence they failed to file his reply. Under these circumstances, the impugned assessment order dated 30.04.2024 came to be passed by the Respondent demanding tax along with penalty and interest for the Assessment Year 2018-2019 and the same was also uploaded in the GST Portal. Subsequently, the Respondent-Department vide notice dated 19.07.2024 attached the bank account of the Petitioner. The Petitioner came to know of the Show Cause Notice as well as impugned order from the Respondent only during 2nd week of September 2024.

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 Special Government pleader (Taxes) would submit that the Respondent uploaded the show cause notice followed by reminder notices in the GST Online Portal. But the Petitioner failed to submit reply to substantiate its case and therefore the impugned assessment order came to be passed.

7. In reply, the learned counsel for the Petitioner would fairly submit that the Petitioner is now ready and willing to pay 10% of the disputed tax liability made by the Respondent in the event of providing an opportunity to them to file their reply along with the required documents to substantiate their claim, for which, the learned Special Government Pleader (Taxes) has no serious objection.

8. Heard the learned counsel for the Petitioner and the learned Special Government Pleader (Taxes) for the Respondent and also perused the materials available on record.

9. In the present case, since the show cause notice as well as the reminder notices were uploaded in the GST Portal, the Petitioner was not aware of the same and therefore he is not in a position to file reply for the show cause notice.

10. Further, it appears that no opportunity of personal hearing was provided to the Petitioner prior to the passing of impugned order. 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 30.04.2024 passed by the Respondent. According, this Court passes the following order:-

> (i) The impugned order dated 30.04.2024 is set aside and the matter is remanded to the Respondent for fresh consideration on condition that the Petitioner shall pay 10% of disputed tax to the 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

order will take effect from the date of payment of the said amount.

(ii) The petitioner 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 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.

(iv) Considering the fact that the impugned order itself has been set aside, this Court is of the opinion that the attachment made on the bank account of the Petitioner vide Notice dated 19.07.2024 cannot survive any longer and hence, it is lifted. As a sequel, the Respondent is directed to instruct the concerned bank to release the attachment on the bank account of the petitioner, immediately upon the production of proof with regard to the payment of 10% of the demand amount by the Petitioner as stated above.

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

19.10.2024

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

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To:

The Deputy State Tax Officer-2,
Nanganallur Assessment Cricle,
No.571, Integrated Commercial Taxes and Registration Department, (South Tower),
Room No.224, 2nd Floor,
Anna Salai, Nandanam,
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KRISHNAN RAMASAMY.J.,

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