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.30940 of 2024 &
W.M.P.No.33527 and 33528 of 2024

Tvl.Chiranjilal Rajkumar ... Petitioner

Vs.

The Assistant Commissioner (ST),
Sevapet Assessment Circle,
Integrated CT Buildings,
Pichards Road, Salem. ... 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 of the respondent vide his order of Assessment in TNGST/669123/1993-94 dated 25.07.2024 and to quash the same and further direct the respondent to pass fresh assessment order after providing the petitioner with the copy of the D7 records and upon receipt of their objections.

For Petitioner : Mr.R.Ganesh Kanna

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 order of the Respondent dated 25.07.2024 and to quash the same and further direct the respondent to pass fresh assessment order after providing the petitioner with the copy of the D7 records and upon receipt of their objections..

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 despite filing of reply by the Petitioner to the notices issued to them, the Respondent without considering the same and without providing an opportunity of personal hearing to the Petitioner passed the impugned order demanding tax along with interest and penalty for the Assessment Year 1993-1994 and therefore the impugned order passed is not in accordance with Section 12(2) of the Tamil Nadu Goods and Services

Tax Act, 2017 and is in violation of principles of natural justice and hence prays to set aside the same.

5. On the other hand, the learned Additional Government Pleader (Taxes) would submit that the personal hearing was fixed on 15.03.2024. However, he fairly agreed that the said date is prior to the reply filed by the Petitioner i.e., 18.06.2024. He therefore prayed for appropriate orders.

6. 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.

7. It is settled law that violation of principles of natural justice is a failure of due process. If any order is passed against the petitioner with demand, that order has to be passed after giving an opportunity of personal hearing to the petitioner otherwise, it will amount to depriving the rights of the petitioner and the same amounts to violation of principles of natural justice.

8. In the case on hand, in the show cause notice itself, the date of personal hearing was fixed i.e., on 15.03.2024 and the petitioner after receipt of the notice has filed its reply on 18.06.2024 and no date for personal hearing was provided, thereafter and therefore the date of personal hearing fixed is prior to the date of reply. Hence, it is implied that Respondent without affording an opportunity of personal hearing has passed the impugned assessment order.

9. In such view of the matter, this Court is inclined to set aside the impugned order dated 25.07.2024 passed by the Respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 25.07.2024 is set aside and the matter is remanded to the 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 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.

19.10.2024
(3/4)

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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KRISHNAN RAMASAMY.J.,

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To

The Assistant Commissioner (ST),
Sevapet Assessment Circle,
Integrated CT Buildings,
Pichards Road, Salem.

W.P.No.30940 of 2024

19.10.2024