IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.10.2024

Coram

The Honourable Mr.Justice KRISHNAN RAMASAMY

W.P.No.30929 of 2024
and W.M.P.Nos.33511 & 33512 of 2024

M/s.Nunez Engineering Works,
Rep. by its Partner Mr.Ancil Anto Nunez,
GSTIN: 33AAJFN863K1ZT,
Reg. Address at
2030, Trichy Road Opp.
Rajalakshmi Mills High School,
Singanallur, Coimbatore,
Tamil Nadu – 641 005.

...Petitioner

Versus

1.State Tax Officer,
Office of Assistant Commissioner (ST),
Singanallur North Circle,
Coimbatore,
Tamil Nadu – 641 005.

2.Commercial Tax Officer,
Office of Assistant Commissioner,
Singanallur North Circle,
Coimbatore,
Tamil Nadu – 641 005.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari to call for the records of the respondents and quash the impugned order vide GSTIN:

33AAJFN863K1ZT/2018-19 dated 23.04.2024 along with its annexure and the consequent summary of the order both having Reference Number:ZD3304241773884 passed under Section 73 of Tamil Nadu Goods and Services Tax Act, 2017 and Central Goods and Services Tax Act, 2017 and Form GST DRC – 07 dated 23.04.2024 passed by the respondents.

For Petitioner	:	Mr.A.Leeban
For Respondents	:	Ms.Amrita Dinakaran, Government Advocate

ORDER

Ms.Amrita Dinakaran, learned Government Advocate takes notice for the respondents.

2. With the consent of both sides, this writ petition is taken up for final disposal at the admission stage itself.

3. The relief sought by the petitioner herein is to call for the records of the respondents and quash the order in GSTIN: 33AAJFN863K1ZT/2018-19 dated 23.04.2024 along with its annexure and consequent summary of the order having Reference Number:ZD3304241773884 and Form GST DRC – 07 dated 23.04.2024 passed by the respondents.

4. The learned counsel for the petitioner submitted that Show Cause Notice dated 30.08.2023 as well as the orders dated 23.04.2024 issued by the respondents were uploaded in the “Additional Notices” tab of the GST portal. So, the petitioner was not aware of the proceedings. Further, prior to the issuance of the impugned orders, the respondents neither served any notice to the petitioner nor provided an opportunity of hearing to the petitioner to put forth their case. Therefore, the learned counsel prayed this Court to quash the impugned orders.

5. On the other hand, the learned Government Advocate appearing for the respondents submitted that the matter may be remanded back to the first respondent for fresh consideration on condition that the petitioner shall pay 10% of the disputed tax amount.

6. Heard the learned counsel for the petitioner as well as the learned Government Advocate appearing for the respondents and perused the materials available on record.

7. As far as this case is concerned, without issuing any prior notice to the petitioner and also, without providing an opportunity to the petitioner, the respondents have passed the impugned orders, which is in violation of the principles of natural justice. Therefore, this Court is of the opinion that the impugned orders are ought to be quashed and an opportunity of personal hearing to be afforded to the petitioner to establish their case.

8. Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, this Court feels that it would be appropriate to issue the following directions:

(i) The order in GSTIN: 33AAJFN863K1ZT/2018-19 dated 23.04.2024 along with its annexure and consequent summary of the order having Reference Number:ZD3304241773884 and Form GST DRC – 07 dated 23.04.2024 passed by the respondents are quashed and the matter is remanded back to the first respondent for fresh consideration on condition that the petitioner shall pay 10% of the disputed tax amount to the first respondent, within a period of four weeks from the date of receipt of a copy of this order. After making such payment, the petitioner shall produce the payment proof before the first respondent.

(ii) It is made clear that quashing of the impugned order will come into effect, only from the date of payment of 10% of the disputed tax amount by the petitioner.

(iii) The petitioner is directed to file their Reply/Objection along with the required documents, if any, within a period of two weeks thereafter.

(iv) On production of aforesaid payment proof, the first respondent shall consider the petitioner's Reply/Objection and pass appropriate orders, on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner, as expeditiously as possible.

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

22.10.2024

mrr

Index : Yes/No

Speaking Order (or) Non-Speaking Order

To

1.State Tax Officer,
Office of Assistant Commissioner (ST),
Singanallur North Circle,
Coimbatore, Tamil Nadu – 641 005.

2.Commercial Tax Officer,
Office of Assistant Commissioner,
Singanallur North Circle,
Coimbatore, Tamil Nadu – 641 005.

KRISHNAN RAMASAMY, J.

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W.P.No.30929 of 2024

22.10.2024