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IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 21.10.2024
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No. 31282 of 2024
and
W.M.P.No. 33915 & 33916 of 2024

Mathusai Trading Corporation,
Rep. by its Proprietor, R.Mathubalan. ...Petitioner

Vs.

The State Tax Officer,
Group -III, Intelligence -II,
No.1, PAPJM Buildings,
Greams Road, Chennai 600 006. ...Respondent

Prayer in W.P.No.31282 of 2024:-

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the impugned order of the respondent passed in GSTIN : 33CDPPM0809R1ZZ/2020-21 dated 18.06.2024 digitally signed on 24.06.2024) and to quash the same.

For Petitioner : Mr.N.L.Rajah
Senior Counsel in all W.Ps.
For Respondent : Mrs. K.Vasanthamala,
Government Advocate (T)

Order

With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

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2. The challenge in this Writ Petition is to the order passed by the respondent dated 18.06.2024 and to quash the same.

3. Mr.N.L.Rajah, learned Senior Counsel for the petitioner would submit that the impugned order suffers from violation of principles of natural justice and also against the provisions contemplated under Section 75(4) of the CGST Act as the petitioner has not been heard before passing the impugned order. Further, it is contended that though the petitioner filed a Petition seeking rectification of the impugned order, the same was disposed of by the respondent in a hurried manner, without hearing the petitioner. Therefore, the learned counsel prayed for setting aside the impugned order.

4. Mrs. K.Vasanthamala, the learned Government Advocate (T), who takes notice on behalf of the respondent fairly submitted that no personal hearing opportunity was given to the petitioner before passing the impugned order.

5. I have given due considerations to the submissions made on either

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side and perused the materials available on record.

6. The petitioner is a registered dealer on the files of the respondent under the provisions of Tamil Nadu Value Added Tax Act, 2006 and also under the Central Sales Tax Act 1956. For the AY 2020 to 2021, the respondent issued a show cause notice containing eight issues, to which, the petitioner filed reply. The respondent, after considering the reply, though dropped the proposals in respect of eight issues, insofar as other four issues are concerned (since the petitioner has not filed documents concerning those four issues) the proposals contained in the show cause notice were confirmed. However, the reason for non-production/attachment of the documents concerning those issues is that those documents are voluminous, the same cannot be uploaded in the GST Portal. That apart, the petitioner was under the belief that the during the personal hearing to be fixed by the respondent after the filing of the reply, those documents can be handed over. However, the respondent, without providing an opportunity of personal hearing, straightaway passed the impugned order dated 18.06.2024. Since the respondent passed the impugned order, which is in violation of

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provisions contemplated under Section 75(4) of the CGST/TNGST Act, 2017, the petitioner filed a Petition seeking for rectification. However, the said Rectification Petition was also disposed of by the respondent in a hurried manner, without hearing the petitioner.

7. Therefore, this Court is of the view that the impugned order is liable to be set aside as the same suffers not only from violation of principles of natural justice but also against the provisions contemplated under Section 75 (4), inasmuch as, in terms of Section 75 (4) of the CGST Act, an opportunity of hearing ought to have been granted, where any adverse decision is contemplated against taxpayer (petitioner in this case).

8. Accordingly, this Court passes the following orders:-

i) The impugned orders dated 18.06.2024 is set aside.

ii) Consequently, the matter is remanded to the respondent for re-consideration.

iii) The petitioner is directed to file all the documents available with them along with any additional reply, if any, within a period of two (2) weeks from the date of receipt of a certified copy of this order. In case, the petitioner finds any difficulty in uploading the voluminous documents via.

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GST Portal, the same shall be produced before the respondent through physical mode on the date fixed for personal hearing.

iv) Thereafter, the respondent is directed to consider the same and issue a 14 days clear notice fixing a date of personal hearing to the petitioner, on which date, the petitioner shall appear and produce the documents and after hearing the petitioner in full and perusing the documents, the respondent shall decide the matter and pass orders in accordance with law.

9. In the result, Writ Petition is allowed on the aforesaid terms. No costs. Consequently, connected Miscellaneous Petitions are closed

21.10.2024

sd
Index : yes/no
Neutral Citation : yes/no

To
The State Tax Officer,
Group -III, Intelligence -II,
No.1, PAPJM Buildings,
Greams Road, Chennai 600 006.

Krishnan Ramasamy,J.,

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