IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.10.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.31035 of 2024
& W.M.P.Nos.33656 & 33657 of 2024

Tvl.Sri Balaji Enterprises,
Rep by its Proprietor, G.Vijayarasan,
9/14, Ground, Thiruthakka Devar Street,
Maraimalai Nagar,
Kanchipuram 603209

... Petitioner

Vs.

State Tax Officer,
Maraimalainagar Assessment Circle,
4/109, Second Floor, Bangalore Chennai Highway,
Varadarajapuram, Nazarathpet,
Chennai 600 123

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records relating to the impugned order in Ref.No.ZD3304242549482 dated 30.04.2024 passed by the respondent and quash the same

For Petitioner : Ms.R.Sri Visvapriya

For Respondent : Mr.V.Prashanth Kiran, Government Advocate

ORDER

This writ petition has been filed challenging the impugned order dated 30.04.2024 passed by the respondent.

2. Mr.V.Prashanth Kiran, learned Government Advocate, takes notice on behalf of the respondent. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that in this case, a show cause notice dated 28.12.2023 was issued by the respondent. For the said show cause notice, a reply was filed by the petitioner on 22.04.2024, whereby, they sought for further time to appear before the respondent for personal hearing. However, without considering the said request, the impugned order came to be passed by the respondent on 30.04.2024. Hence, he would contend that the said impugned order has been passed in violation of principles of natural justice and requests this

Court to set aside the same.

4. On the other hand, the learned Government Advocate appearing for the respondent made an objection for the submissions made by the petitioner and would submit that in spite of the provision of sufficient opportunities, the petitioner had failed to appear before the respondent. Since the last date for passing the assessment order is on or before 30.04.2024, the impugned order came to be passed by the respondent on 30.04.2024. Further, he would contend that the fault is only on the part of the petitioner and thus, requests this Court to dismiss the present petition.

5. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondent and also perused the materials available on record.

6. In the case on hand, it was admitted by the petitioner that for the show cause notice issued by the respondent, a reply dated 22.04.2024 was filed by the petitioner, whereby they sought for further time to

appear before the respondent. However, without considering the reply, the impugned order came to be passed by the respondent on 30.04.2024.

7. The present matter is pertaining to the Assessment Year 2018-19. As per the provisions of Section 73 of the Goods and Services Tax Act, 2017, the respondent has to pass the assessment order within a period of 3 years, i.e., on or before 30.04.2024. Though a period of 3 years was available to the respondent, they had initiated the proceedings only in the nick of the moment and issued the show cause notice on 28.12.2023, i.e., 4 months prior to the expiry of due date. Hence, this Court is of the view that 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 on terms. Accordingly, 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 amount to the respondents within a period of four weeks from today (28.10.2024)

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 three weeks from the date of receipt of copy of this order.

(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 cannot survive any longer and hence, it is lifted. As a sequel, the respondents are directed to instruct the concerned Bank to release the attachment and de-freeze 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.

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

28.10.2024

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

To

State Tax Officer,
Maraimalainagar Assessment Circle,
4/109, Second Floor, Bangalore Chennai Highway,
Varadarajapuram, Nazarathpet,
Chennai 600 123

KRISHNAN RAMASAMY.J.,

nsa

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