IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.10.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.31052 of 2024
& W.M.P.Nos.33670 & 33671 of 2024

M/s.Kongsberg Norcontrol Surveillance Private Limited,
Rep by its Director, Aniruddh Sharma,
180/38, M.S.Koil Street,
Royapuram, Chennai,
Tamil Nadu 600 013.

... Petitioner

Vs.

1.The Commissioner of Commercial Taxes (State),
4th Floor, Ezhigalam, Chennai 600 005.

2.The State Tax Officer,
Royapuram Assessment Circle,
Integrated Building for Commercial Taxes Department,
Chennai North Division,
No.32, Elephant Gate Bridge Road,
Vepery, Chennai 600 003.

... 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 pertaining to impugned order vide Ref.No.ZD330424170706F dated 23.04.2024 under Section 73 of the TNGST/CGST Act, passed by the 2nd respondent and quash the same.

For Petitioner : Mr.K.Thyagarajan

For Respondent : Mr.C.Harsha Raj,
Additional Government Pleader

ORDER

This writ petition has been filed challenging the impugned order dated 23.04.2024 passed by the respondent.

2. Mr.C.Harsha Raj, learned Additional Government Pleader, takes notice on behalf of the respondents. 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 all notices/communications were uploaded by the respondent in the GST portal. Since the petitioner was not aware of the said notices, they failed to file their reply within the time. Under these circumstances, the impugned order came to be passed by the 2nd respondent without providing any opportunity of personal hearing to the petitioner. Hence,

this petition has been filed.

4. On the other hand, the learned Additional Government Pleader appearing for the respondent would submit that the respondents had uploaded the notices in the GST Online Portal. But the petitioner failed to avail the said opportunity. Further, he has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, he requested this Court to remit the matter back to the 2nd respondent, subject to the payment of 10% of the disputed amount by the petitioner.

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

6. In the case on hand, it is clear 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 was

passed in violation of principles of natural justice since 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 23.04.2024 passed by the respondent. Accordingly, this Court passes the following order:-

> (i) The impugned order dated 23.04.2024 is set aside and the matter is remanded to the 2nd 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 2nd 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, if any, 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, if any, 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
Note: Upload order copy today (28.10.2024)

<u>KRISHNAN RAMASAMY.J.,</u>

nsa

To

1.The Commissioner of Commercial Taxes (State),
4th Floor, Ezhigalam, Chennai 600 005.

2.The State Tax Officer,
Royapuram Assessment Circle,
Integrated Building for Commercial Taxes Department,
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