IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.10.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.30893 of 2024
& W.M.P.Nos.33476 & 33477 of 2024

Sri Ragavendra Agencies,
Rep by its Proprietor Mr.Munusamy Dayalan,
No.17/11, Manali New Town,
Manali, Chennai 600 103

... Petitioner

Vs.

The Assistant Commissioner (ST),
Cholavaram:Tiruvallur,
Room No.109, 1st Floor,
Integrated Commercial Taxes Building,
Elephant Gate, Wall Tax Road,
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 of the respondent order in Ref.No.ZD330824169152F/2019-20 dated 20.08.2024 and quash the same as arbitrary, illegal.

For Petitioner : Mr.S.Ramanan

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

ORDER

This writ petition has been filed challenging the impugned order dated 20.08.2024 passed by the respondent.

2. Mr.C.Harsha Raj, learned Additional Government Pleader, 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, the show cause notice was issued by the respondent on 11.08.2023. However, the consultant of the petitioner had neither informed the petitioner with regard to the said notice nor filed any reply. Under these circumstances, the exparte impugned order came to be passed by the respondent without providing any opportunity of personal hearing to the

petitioner. Hence, he requests this Court to set aside the said impugned order.

4. On the other hand, the learned Additional Government Pleader appearing for the respondent had strongly opposed for the request made by the petitioner and would submit that though the show cause notice was duly served to the petitioner, the petitioner had neither filed their reply nor appeared for personal hearing before the respondent. Further, he would contend that the petitioner had lost their opportunities before the respondent and hence, he requests this Court to dismiss this petition by granting liberty to the petitioner to file an appeal before the Appellate Authority.

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 a show cause notice was issued to the petitioner on 11.08.2023. However, the consultant, who was

entrusted by the petitioner, had neither informed the petitioner nor filed any reply for the said show cause notice. In such case, the reason provided for non-filing of reply within the prescribed time appears to be genuine.

7. Further, 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, in the interest of justice, this Court is inclined to set aside the impugned order dated 20.08.2024 passed by the respondent on terms. Accordingly, this Court passes the following order:-

> (i) The impugned order dated 20.08.2024 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 respondent and also pay a sum of Rs.10,000/- to The Principal Government Naturopathy Medical College and

Hospital, Account No.7883022723, IFSC Code: IDIB000M157, within a period of four weeks from today (24.10.2024) and the setting aside of the impugned order will take effect from the date of payment of the said amounts.

(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.

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

closed.

24.10.2024

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

To

The Assistant Commissioner (ST),
Cholavaram:Tiruvallur,
Room No.109, 1st Floor,
Integrated Commercial Taxes Building,
Elephant Gate, Wall Tax Road,
Chennai 600 003

KRISHNAN RAMASAMY.J.,

nsa

W.P.No.30893 of 2024
& W.M.P.Nos.33476 & 33477 of 2024

24.10.2024