IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.10.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.30966 of 2024
& W.M.P.Nos.33576, 33577 & 33579 of 2024

Tvl.Sri Selvaganapathy Communication,
Represented by its Proprietor Mr.N.S.Praveen,
No.2/50, Main Road, Erangattur,
Gobichettipalayam, Erode,
Tamil Nadu 638 505

... Petitioner

Vs.

1.The Assistant Commissioner (ST)(FAC),
Bhavani Assessment Circle,
Erode.

2.The Deputy Commissioner (ST),
Erode CT Zone

3.Tvl.Vodafone Idea Limited,
PSA Fort, PSA Fort, 1st Main Road,
Nehru Nagar, Perungudi,
Chennai, Tamil Nadu 600 096.

... 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 1st respondent in GSTIN: 33BSOPP0152P1ZB/2018-19 along with Form GST DRC-07 with Ref.No.ZD330424146852G dated 18.04.2024 for the tax period APR 2018-MAR 2019 and quash the same.

For Petitioner : Mr.K.A.Parthasarathy

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

ORDER

This writ petition has been filed challenging the impugned order dated 18.04.2024 passed by the 1st respondent.

2. Mr.C.Harsha Raj, learned Additional Government Pleader, takes notice on behalf of the respondents 1 and 2. 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 Accounts Officer of the petitioner had left the business, they were unable to file their reply within the time. Under these circumstances, the impugned order came to be passed by the respondent without providing any opportunity of personal hearing to the petitioner. Hence, this petition has been filed. Further, he requests this Court to lift garnishee proceedings initiated by the 2nd respondent dated 06.08.2024.

4. On the other hand, the learned Additional Government Pleader appearing for the respondents 1 and 2 would submit that the 1st respondent has 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 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 respondents 1 and 2 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 18.04.2024 passed by the 1st respondent. Accordingly, this Court passes the following order:-

> (i) The impugned order dated 18.04.2024 is set aside and the matter is remanded to the 1st respondent for fresh consideration on condition that the petitioner shall pay 10% of disputed tax amount to the respondent within a period of four weeks from today (18.10.2024) 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 1st 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 orders itself have been set aside, this Court is of the opinion that the garnishee order dated 06.08.2024 passed by the 2nd respondent cannot survive any longer. Accordingly, the 2nd respondent is directed to lift the said garnishee order, 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.

18.10.2024

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

1.The Assistant Commissioner (ST)(FAC),
Bhavani Assessment Circle,
Erode.

2.The Deputy Commissioner (ST),
Erode CT Zone

KRISHNAN RAMASAMY.J.,

nsa

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(2/2)