IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2024
Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.31499 of 2024
and
W.M.P.Nos.34228 & 34230 of 2024

Tvl. Annapoorani Blue Metals,
No.27, Perumukkal,
Arungunam Village,
Tindivanam Taluk,
Villupuram – 604 304. ...Petitioner

Vs.

State Tax Officer,
Tindivanam Assessment Circle,
Villupuram Zone,
Cuddalore Division. ...Respondent

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for records of the respondent's order dated 22.04.2024 in GST No.33AHZPG5537A2ZC/2018-19 and to quash the same as arbitrary.

For Petitioner : M/s.Janani

For Respondent : Mr.G.Nanmaran
Special Government Pleader (T)

Order

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

2. The challenge in this Writ Petition is to the order passed by the respondent dated 22.04.2024 and to quash the same as arbitrary.

3. M/s.Janani, learned counsel for the petitioner would submit that the petitioner, in pursuance of Form ASMT-10 notice issued by the respondent dated 24.10.2023, has voluntarily made the required payments under Form DRC-03 on 07.03.2024, however, the respondent without considering the same, has issued a show cause notice under DRC-01 dated 16.03.2024, pointing out certain discrepancies and passed the impugned order. Further, it is the contention of the petitioner that all the show cause notice and all other subsequent communications/notice calling for petitioner's objections were uploaded only through the online portal but the same were not served to the petitioner through physical mode of service, hence, the petitioner, who was not well accustomed with the new procedure adopted under the new GST Act, failed to note those notices, however, the respondent, without hearing the petitioner passed the impugned order.

4. Therefore, the learned counsel would submit that the impugned order is not only an outcome of non-application of mind but also suffers from violation of principles of natural justice and liable to be aside.

5. Mr.G.Nanmaran, learned Special Government Pleader (T), who takes notice for the respondent fairly submitted that since the petitioner had already deposited required tax, the prayer sought for by the petitioner may be considered.

6. I have given due considerations to the submissions made on either side and perused the materials available on record.

7. On perusal of records, it is crystal clear that the impugned order came to be passed against the petitioner, behind their back, as the respondent has not taken any steps to serve the show cause notices/notice of personal hearing to the petitioner directly through physical mode of service and made it available only in the GST Portal, therefore, the petitioner was not at all

aware of those notices/orders. Further, it is seen that the petitioner, on receipt of Form ASMT -10 notice, had paid the required tax under Form GST DRC-03 on 07.03.2024, and thus, the show cause notice and other communications, which culminated in the impugned order were issued to the petitioner subsequent to the payment made by the petitioner, which per se shows that the impugned order is nothing but an outcome of non-application of mind and the same suffers from violation of principles of natural justice. Hence, this Court is inclined to set aside the impugned order passed by the respondent.

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

i) The impugned order dated 22.04.2024 is set aside and the matter is remanded back to the respondent for fresh consideration.

ii) The petitioner is directed to file reply along with supportive documents within a period of three weeks from the date of receipt of a certified copy of this order.

iii) Thereupon, the respondent is directed to consider the same and shall issue a clear 14 days notice affording an opportunity of personal hearing to the petitioner, and after hearing the petitioner in full, shall decide the matter in accordance with law.

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

29.10.2024

sd

Index : yes/no
Neutral Citation : yes/no

To

State Tax Officer,
Tindivanam Assessment Circle,
Villupuram Zone,
Cuddalore Division.

Krishnan Ramasamy,J.,

sd

W.P.No.31499 of 2024

29.10.2024