IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.10.2024

Coram

The Honourable Mr.Justice KRISHNAN RAMASAMY

W.P.No.31590 of 2024
and W.M.P.Nos.34335 & 34337 of 2024

Tvl.Pasura Crop Care Private Limited,
Represented by its Director,
Mr.Prasanth Kumar Pabbathi,
Plot No.01, Ganapathi Nagar, Ariyamangalam,
Trichy, Ganapathi Nagar, Tiruchirappalli,
Tamil Nadu – 620 010.

...Petitioner

Versus

1.The State Tax Officer,
(also known as Commercial Tax Officer),
Arisipalayam Circle,
Room No.418, Fourth Floor,
Integrated Commercial Taxes Building,
Pitchards Road, Salem – 600 008.

2.The Assistant Commissioner (ST),
Arisipalayam Circle,
Salem.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records on the files of the 1st respondent herein in GSTIN: 33AAGCP6153N1Z3/2017-2018 dated 29.12.2023 and quash the same.

For Petitioner : Mr.A.N.R.Jayaprathap

For Respondents : Mr.C.Harsha Raj,
Additional Government Pleader (Tax)

ORDER

Mr.C.Harsha Raj, learned Additional Government Pleader (Tax) takes notice for the respondents.

2. With the consent of both sides, this writ petition is taken up for final disposal at the admission stage itself.

3. The relief sought by the petitioner herein is to call for the records on the files of the first respondent in GSTIN: 33AAGCP6153N1Z3/2017-2018 dated 29.12.2023 and quash the same.

4. The learned counsel for the petitioner submitted that based on the GST Audit conducted by the audit team under Section 65 of the Tamil Nadu Goods and Services Tax Act, 2017, the first respondent has passed an order in GSTIN: 33AAGCP6153N1Z3/2017-2018 dated 29.12.2023 and Form

GST DRC-01 dated 29.12.2023, directing the petitioner to pay tax, interest and penalty. Though the impugned order was passed on 29.12.2023, the petitioner came to know about the same only in the 1st week of July, 2024. All the notices and impugned order were uploaded in the tab "Additional Notices and Orders" in the petitioner's account on the GST portal. He further submitted that prior to the issuance of the impugned order, the first respondent had neither served any notice to the petitioner nor provided an opportunity of hearing to the petitioner to put forth their case. Therefore, the learned counsel prayed this Court to quash the impugned order.

5. On the other hand, the learned Additional Government Pleader (Tax) appearing for the respondents submitted that the matter may be remanded back to the first respondent for fresh consideration on condition that the petitioner shall pay 10% of the disputed tax amount.

6. Heard the learned counsel for the petitioner as well as the learned Additional Government Pleader (Tax) appearing for the respondents and perused the materials available on record.

7. As far as this case is concerned, without issuing any prior notice to the petitioner and also, without providing an opportunity to the petitioner, the first respondent has passed the impugned order, which is in violation of the principles of natural justice. Therefore, this Court is of the opinion that the impugned order is ought to be quashed and an opportunity of personal hearing to be afforded to the petitioner to establish their case.

8. Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, this Court feels that it would be appropriate to issue the following directions:

(i) The order in GSTIN: 33AAGCP6153N1Z3/2017-2018 dated 29.12.2023 passed by the first respondent is quashed and the matter is remanded back to the first respondent for fresh consideration on condition that the petitioner shall pay 10% of the disputed tax amount to the first respondent, within a period of four weeks from the date of receipt of a copy of this order. After making such payment, the petitioner shall produce the payment proof before the first respondent.

(ii) It is made clear that quashing of the impugned order will come into effect, only from the date of payment of 10% of the disputed tax amount by the petitioner.

(iii) The petitioner is directed to file their Reply/Objection along with the required documents, if any, within a period of two weeks thereafter.

(iv) On production of aforesaid payment proof, the first respondent shall consider the petitioner's Reply/Objection and pass appropriate orders, on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner, as expeditiously as possible.

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

24.10.2024

mrr

Index : Yes/No

Speaking Order (or) Non-Speaking Order

To

1.The State Tax Officer,
(also known as Commercial Tax Officer),
Arisipalayam Circle,
Room No.418, Fourth Floor,
Integrated Commercial Taxes Building,
Pitchards Road, Salem – 600 008.

2.The Assistant Commissioner (ST),
Arisipalayam Circle,
Salem.

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

mrr

W.P.No.31590 of 2024

24.10.2024