IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.10.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.32125 of 2024
and
W.M.P.Nos.34884 and 34885 of 2024

PRADEEPA ENTERPRISES
Represented by its Proprietrix Mrs.M.CHITRA
10/28, Tirumalai Street, Venkateswara Nagar,
Chennai 600 053. ...Petitioner

Vs.

The Deputy State Tax Officer,
(Formerly known as Deputy Commercial Tax Officer)
THIRUMULLAIVOLYAL:AVADI,
TIRUVALLUR,
Room No.114, 1st Floor,
Integrated Commercial Taxes Offices Building,
No.32, Elephant Gate Bridge Road, (Walltax Road),
Vepery, Chennai 600 003. ... Respondent

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records of the Respondent in DRC-07 Reference Number ZD330724069241J/2019-20 DATED:05.07.2024 and quash the same as arbitrary and illegal.

For Petitioner : Ms.V. Vijayalakshmi

For Respondent : Mr.T.N.C.Kaushik
Additional Government Pleader (Taxes)

ORDER

This Writ Petition has been filed to call for the records of the Respondent dated 05.07.2024 and to quash the same.

2. Mr.T.N.C.Kaushik, learned Additional Government Pleader (Taxes), takes notice on behalf of the Respondent.

3. By consent of the parties, the main Writ Petition is taken up for disposal at the time of admission stage itself.

4. The learned counsel for the petitioner submits that show cause notice dated 14.08.2023 followed by reminder notice dated 27.06.2024 were issued to the Petitioner and though the documents were readily available with the Petitioner, the Petitioner could not file its reply for the reason that the authorized person of the Petitioner Company was not well at that point of time. Under such circumstances, impugned assessment order dated 05.07.2024 came to be passed demanding tax along with interest and penalty for the Assessment

Year 2019-20 and the same was uploaded in the GST portal and since the consultant of the Petitioner Firm, who was taking care of GST compliances failed to inform about the said proceedings, the Petitioner was unaware of the same. The Petitioner came to know of the said order only after getting phone call from the Respondent-Department, informing about the tax arrears.

5. Further, She would submit that impugned assessment order came to be passed without affording an opportunity of hearing to the Petitioner and therefore the same is in violation of principles of natural justice and therefore prays to set aside the same.

6. The learned Additional Government Pleader (Taxes) appearing for the Respondent submitted that though the Show Cause Notice was issued to the Petitioner, by uploading the same in the GST portal, the Petitioner failed to submit its reply and therefore impugned assessment order came be passed.

7. Heard the learned counsel for the petitioner and the learned Additional Government Pleader (Taxes) for the Respondent and also perused the materials available on record.

8. In the present case, it is contended by the Petitioner that though the documents were readily available with the Petitioner, the Petitioner could not file reply to the Show Cause Notice for the reason the authorized person of the Petitioner-Firm was unwell at that point of time. Subsequently impugned assessment order came to be passed.

9. Further, it appears that opportunity of personal hearing was not granted to the Petitioner prior to passing of impugned order. Hence, this Court is of the view that the impugned order passed is in violation of principles of natural justice and 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 assessment order dated 05.07.2024 passed by the Respondent. Accordingly, this Court passes the following order:-

> (i) The order impugned herein 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 to the Respondent within a period of ***four weeks*** from the date of receipt of a copy of this order 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 two weeks thereafter.

(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.

10. Accordingly, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

30.10.2024
(1/3)

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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<u>Krishnan Ramasamy,J.,</u>

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To

The Deputy State Tax Officer,
(Formerly known as Deputy Commercial Tax Officer)
THIRUMULLAIVOLYAL:AVADI,
TIRUVALLUR,
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