IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.10.2024

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.32057 of 2024 &
W.M.P.Nos.34807 and 34808 of 2024

M/s.Raja Electrical Works,
represented by its Proprietor,
No.36 Bazaar Street, Periyapalayam,
Uthukottai- 601 102. ... Petitioner

Vs.

The State Tax Officer,
Tiruvallur Assessment Circle
No.4/109, Chennai-Bangalore High Road
Varadarajapuram
Nazarathpettai- 600 123. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the entire records connected with the impugned order of the Respondent and his proceedings in GSTIN No.33AEFPR6402N2ZA/2019-2020 dated 20.06.2024 and QUASH the same.

For Petitioner : Mr.P.V.Sudakar

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

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ORDER

This writ petition has been filed by the petitioner challenging the impugned order dated 20.06.2024 passed by the Respondent and to quash the same.

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

3. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

4. The learned counsel for the petitioner would submit that in the present case, initially the Respondent issued Show Cause Notice dated 07.01.2021 to the Petitioner and the same was uploaded in the "view additional notices and orders" column in the GST Portal and therefore the Petitioner was not aware of the same and hence failed to file its reply.

Under such circumstances, impugned order dated 20.06.2024 came to be passed by the Respondent demanding tax and penalty for the Assessment Year 2019-2020. The Petitioner came to know of the show cause notice as well as the impugned order from the Respondent belatedly.

5.Further, he would submit that impugned 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. On the other hand, the learned Additional Government Pleader (Taxes) would submit that the respondent issued Show Cause Notice as well as the personal hearing notice to the Petitioner, by uploading the same in the GST portal. But the Petitioner failed to submit reply and appear before the Respondent for personal hearing to substantiate its case and therefore impugned assessment order came to be passed.

7. In reply, the learned counsel for the petitioner would fairly submit that the petitioner is now ready and willing to pay 10% of the disputed tax liability made by the respondent in the event of providing an opportunity to them to file their reply along with the required documents to substantiate their claim, for which, the learned Additional Government Pleader (Taxes) has no serious objection.

8. 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.

9. In the present case, since the Show Cause Notice as well as personal hearing notice were uploaded in the GST Portal, the petitioner was not aware of the same and hence failed to file its reply. Subsequently impugned order came to be passed without affording an opportunity of personal hearing to the Petitioner.

10. Hence, this Court is of the view that the impugned order is

passed 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 order dated 20.06.2024 passed by the Respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 20.06.2024 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 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.

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

28.10.2024

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

The State Tax Officer,
Tiruvallur Assessment Circle
No.4/109, Chennai-Bangalore High Road
Varadarajapuram
Nazarathpettai- 600 123.

KRISHNAN RAMASAMY.J.,

arr

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