IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.10.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.32060 of 2024
and
W.M.P.Nos.34811 and 34813 of 2024

SS Packs,
Represented by its Partner Mr.R.Ananth
16/31, Kannapiran Colony,
Valipalayam Main Road,
Tiruppur- 641601. ...Petitioner

Vs.

The Deputy State Tax Officer-1,
Tirupur Central - 1,
No.16, Emperor Building First Floor,
Indira Nagar 1st Street,
Tirupur-641603. ... 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 relating to the Impugned Order dated 18.12.2023 bearing GSTIN/ID 33ABLFS4430L1ZZ/2017-18 and Assessment Order in Form DRC-07 bearing reference ZD331223127055Y dated 18.12.2023 passed by the Respondent and quash the same.

For Petitioner : Mr.K.Nithyavendhan

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

ORDER

This Writ Petition has been filed challenging the Assessment Order along with Summary Order dated 18.12.2023 passed by the Respondent and to quash the same.

2. Mr.G.Nanmaran, learned Special 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 25.09.2023 was issued to the Petitioner. Since the same were uploaded in the "Additional Notices and Orders" tab in the GST Portal, the Petitioner was not aware of the same and hence could not file its reply. Under such circumstances, impugned assessment order along with summary order dated 18.12.2023 came to be passed demanding tax along with interest and

penalty for the Assessment Year 2017-18 and the same was also uploaded in the GST portal. The Petitioner came to know of the Show Cause Notice as well as Impugned Order belatedly.

5. Further, he 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 Special Government Pleader (Taxes) appearing for the Respondent submitted that the Respondent uploaded the Show Cause Notice as well as the reminder notice in the GST portal, but the Petitioner failed to submit its reply and therefore impugned assessment order came 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 Special Government Pleader (Taxes) has no serious objection.

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

9. In the present case, the Respondent issued the Show Cause Notice to the Petitioner and the same was uploaded in the GST Portal and hence the Petitioner was not aware of the same and therefore failed to file its reply.

10. 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 orders 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 orders dated 18.12.2023 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 the 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. Accordingly, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions is closed.

28.10.2024

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

arr

To

The Deputy State Tax Officer-1,
Tirupur Central - 1,
No.16, Emperor Building First Floor,
Indira Nagar 1st Street,
Tirupur-641603.

W.P.No.32060 of 2024

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