IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 29.10.2024
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No. 32344 of 2024
and
W.M.P.Nos.35123 & 35124 of 2024

Tvl. Sourcemax Fasions,
rep. by its Proprietor, Mr.C.Chitrarasu. ...Petitioner

Vs.

The Assistant Commissioner (ST) (FAC)
Tiruppur Rural -1, Assessment Circle,
Tiruppur. ...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 from the files of the impugned proceedings of the respondent in Ref.No.33AEVPC7192Q1ZN/2017-18 dated 01.12.2023 along with Consequential order under Section 73 with Ref No.ZD3312230037602 dated 01.12.2023 for the period 2017-18 and to quash the same as arbitrary.

For Petitioner	:	Mrs.R.Hemalatha
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 01.12.2023 along with Consequential order dated 01.12.2023 and to quash the same.

3. Mrs.R.Hemalatha, learned counsel for the petitioner would submit that the petitioner has been issued with a show cause notice and personal hearing notice, and the same were not served on the petitioner through physical mode but were only uploaded in the GST Portal under the column, "View additional notices and orders", hence, the petitioner could not view the same and file reply/respond to those notices, however, since the petitioner failed to file any reply, the respondent proceeded to confirm the proposals contained in the show cause notice and passed the present impugned orders.

4 Therefore, the learned counsel would submit that the impugned orders suffer from violation of principles of natural justice and is liable to be aside. However, the learned counsel would submit that in the event, this Court is inclined to set aside the impugned orders, the petitioner is agreable to pay 10% of the disputed tax amount and hence, prayed for appropriate orders.

5. Mr.G.Nanmaran, learned Special Government Pleader (T), who takes notice for the respondents fairly submitted that if the petitioner is ready and willing to deposit 10% of the disputed tax, then, 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 orders came to be passed against the petitioner, behind their back, as the respondent-Department has not taken any steps to serve any notices/communications, which culminated in the impugned order directly through physical mode of service and made it available only in the GST

Portal under the "View of additional notices and orders' column, which, the petitioner was not aware and ultimately, the impugned orders came to be passed against the petitioner without even affording any opportunity of hearing to the petitioner, which is in total violation of principles of natural justice. Therefore, this Court is of the view that the impugned orders are nothing but an ex parte order and the same have to be set aside.

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

i) The impugned order dated 01.12.2023 and the consequential order dated 01.12.2023 are set aside and the matter is remanded back to the respondent for fresh consideration.

ii) While remanding the matter, it is made clear that the impugned order is set aside subject to the condition that the petitioner deposits 10% of the disputed tax within a period of four weeks from the date of receipt of a copy of this order.

iii) Thereafter, 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.

iv) 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
The Assistant Commissioner (ST) (FAC)
Tiruppur Rural -1, Assessment Circle,
Tiruppur.

Krishnan Ramasamy,J.,

sd

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