IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.10.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.32487 of 2024
and
W.M.P.Nos.35286 and 35287 of 2024

M/s.Veekay Process Instruments,
represented by its Proprietor
Mr.Venkataswamy Kannan (V.Kannan)
Plot No.20, Door No.40,
Sri Venkatasubramanya Nagar,
1st Main Road, Valasaravakkam
Chennai- 600 087. 8 ...Petitioner

Vs.

The State Tax Officer,
Ramapuram Assessment Circle,
10, Greams Road,
1st Floor, Palaniyappa Maligai
Chennai-600 006. ... 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 impugned assessment order in Reference No.ZD3304240075760X in GSTIN/ID No.33AICPK749D1Z8 dated 01.04.2024 passed for the F.Y.2018-19 and quash the same as illegal, arbitrary and violative of principles of natural justice.

For Petitioner : Mr.R.Ananth

For Respondent : Mr.V.Prashanth Kiran
Government Advocate (Taxes)

ORDER

This Writ Petition has been filed to call for the records of the Respondent dated 01.04.2024 and to quash the same.

2. Mr.V.Prashanth Kiran, learned Government Advocate (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 28.12.2023 was issued to the Petitioner, for which the Petitioner vide letter dated 26.02.2024 requested the Respondent to grant one month time to file suitable reply/objections stating that due to Cyclone Michaung, which hit Chennai during December 2023, rain water entered in the office premises of the Petitioner, as a result all computers, printers, harddisk were drowned in the rain water. But the Respondent without considering the same has passed the impugned order dated 01.04.2024, demanding tax along with interest and

penalty for the Assessment Year 2018-19 and the same was uploaded in the "View Additional Notices and Orders" in the GST portal.

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 Government Advocate (Taxes) appearing for the Respondent submitted that Show Cause Notice was issued to the Petitioner and the Petitioner vide letter dated 26.02.2024 sought one month time to file its reply and the Respondent after giving sufficient time to file its reply has passed the impugned assessment order only on 01.04.2024.

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 Government Advocate (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, it is contended by the Petitioner that though the Petitioner sought time to file reply, the Respondent without considering the same has passed the impugned assessment order. A perusal of the impugned order would go to show that the Respondent has not stated anything about the request made by the Petitioner seeking time 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 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 01.04.2024 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.

(iv) Considering the fact that the impugned order itself has been set aside, this Court is of the opinion that the attachment, if any made on the bank account of the petitioner cannot survive any longer and hence, it is lifted. As a sequel, the respondent is directed instruct the concerned bank to release the attachment on the bank account of the petitioner, immediately upon the production of proof with regard to the payment of 10% of the disputed tax amount by the petitioner as stated above.

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
(1/2)

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

The State Tax Officer,
Ramapuram Assessment Circle,
10, Greams Road,
1st Floor, Palaniyappa Maligai
Chennai-600 006.

Krishnan Ramasamy,J.,

arr

W.P.No.32487 of 2024

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