IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.10.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.32491 of 2024
and
W.M.P.Nos.35298 and 35299 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. ...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.ZD3303240231037 in GSTIN/ID No.33AICPK749D1Z8 dated 05.03.2024 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 05.03.2024 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 09.08.2023 was issued to the Petitioner, for which the Petitioner filed its reply on 24.08.2023, along with the required documents. But, inadvertently the accountant of the Petitioner's firm has uploaded the documents pertaining to the Assessment Year 2019-2020. Under these circumstances, impugned order came to be passed by the Respondent demanding tax along with interest and penalty for the Assessment Year 2018-2019.

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 the Petitioner has furnished the documents pertaining to 2019-2020, instead of 2018-2019 and therefore the impugned order came to be passed, for which the Respondent cannot not found fault with.

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

8. In the present case, the dispute pertains to the Assessment year 2018-2019, but the Petitioner furnished the documents pertaining to the Assessment Year 2019-2020 to the Respondent along with its reply. Therefore the Respondent has passed the impugned order.

9. Though it is fault on the part of the Petitioner, in the interest of justice, this Court is of the view that an opportunity may be provided to the Petitioner to substantiate its case.

10. It is settled law that violation of principles of natural justice is a failure of due process. If any order is passed against the petitioner with demand, that order has to be passed after giving an opportunity of personal hearing to the petitioner otherwise, it will amount to depriving the interest of the petitioner and the same amounts to violation of principles of natural justice.

11. In the case on hand, the impugned order was passed without giving opportunity of personal hearing to the Petitioner. 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 05.03.2024 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.

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

30.10.2024
(2/2)

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.

<u>Krishnan Ramasamy,J.,</u>

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<u>W.P.No.32491 of 2024</u>

30.10.2024