IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.10.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.32596 of 2024
and
W.M.P.Nos.35435 and 35437 of 2024

Tvl. Daniel Traders
Represented by its Proprietor
Mr.Daniel Raj
No.5, Chakrapani Road Extension 2nd Street,
Rasingapuram, Guindy, Chennai- 600 032. ...Petitioner

..Vs..

The State Tax Officer,
Adyar Assessment Circle
Room No.215 & 244, 2nd Floor,
Integrated Commercial Taxes and Registration
Department,
Anna Salai, Nandanam, Chennai- 600 035. ... 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 pertaining to the impugned order dated 29.12.2023 issued in reference no.ZD331223253861M by the respondent and quash the same.

For Petitioner : Mr.Derrick Sam

For Respondent : Ms.AmirthaPoonkodi Dinakaran
Government Advocate (Taxes)

ORDER

This Writ Petition has been filed challenging the order dated 29.12.2023 passed by the respondent and to quash the same.

2. Ms.Amirtha PoonkodiDinakaran, 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 29.09.2023. Since the same was uploaded in the "view additional notices column", the Petitioner was not aware of the same and hence failed to file its reply. Under such circumstances, impugned assessment order dated 29.12.2023 came to be passed demanding tax along with interest and penalty for the Assessment Year 2017-18 and the same was uploaded in the GST portal. The Petitioner came to know of the said order only after getting phone call from

the Respondent-Department during 1st week of August 2024.

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 though the Show Cause Notice was issued to the Petitioner, by uploading the same in the GST portal, the Petitioner failed to submit its reply and therefore impugned assessment order came be passed.

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, since the Show Cause Notice was uploaded in the GST Portal, the Petitioner was not aware of the same and hence failed to submit its reply.

9. 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 29.12.2023 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 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.

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

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

Krishnan Ramasamy,J.,

arr

To

The State Tax Officer,
Adyar Assessment Circle
Room No.215 & 244, 2nd Floor,
Integrated Commercial Taxes and Registration
Department,
Anna Salai, Nandanam, Chennai- 600 035.

W.P.No.32596 of 2024

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