IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.35696 of 2024
and
W.M.P. Nos.38548 and 38551 of 2024

Hind Ispat
Represented by its Proprietor Mr.Mohit Aggarwal,
No.3, Sadayyankuppam Village,
Manali, Tiruvallur,
Tamil Nadu-600 103. ... Petitioner

Vs.

1.The State Tax Officer,
Manali Assessment Circle,Integrate Commercial Taxes Building,
Room No.101, No.32, Elephant Gate Bridge Road,
Vepery, Chennai-600 003.

2.The Assistant Commissioner (ST)(FAC),
Manali Circle, Thiruvallur,
Integrated Building for Commercial Taxes Dept,
Thiruvallur Division, No.32, Elephant Gate Bridge Road,
(Near Elephant Gate Police Station, Waltax Road)
Vepery, Chennai-600 003. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records of 1st Respondent's order passed under Section 73 of TNGST Act, 2017 in Reference No.ZD330424226343S dated 28.04.2024 along with summary of order dated 28.04.2024 relating F.Y. 2018-19 and quash the same.

For Petitioner : Ms.N.Janani

For Respondents : Mr.V.Prashanth Kiran
Government Advocate

ORDER

The present writ petition is filed challenging the impugned proceedings dated 28.04.2024 on the limited ground that the impugned order was passed without granting the petitioner an opportunity of hearing.

2. The petitioner is engaged in supply of iron and steel. The petitioner is a registered dealer under Goods and Services Act, 2017. During the relevant period, the petitioner had filed its returns and paid appropriate taxes. On examination of monthly returns, the following defects were noticed:

i) Under declaration of output tax

ii) Excess claim of ITC

2.1. Subsequently, notice was issued in DRC-01 to the petitioner on 28.12.2023 through GST Portal. The petitioner had filed reply to the show cause notice. The grievance of the petitioner is that the impugned order records that further opportunity of hearing cannot be granted. It is the case of the petitioner that no personal hearing opportunity was ever granted to the petitioner, the impugned order thus suffers from the vice of violation of principles of natural justice.

3. To a pointed question as to whether any opportunity of personal hearing was granted, the learned Government Advocate for the Respondents would submit that personal hearing was not granted. Liberty was sought to proceed with the assessment after affording the petitioner an opportunity of hearing.

4. In view thereof, the impugned order dated 28.04.2024 is set aside. The Respondents shall proceed with the assessment, after granting the petitioner a reasonable opportunity of hearing in accordance with law. The writ petition stands disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

25.11.2024

Speaking (or) Non Speaking Order
Index : Yes/ No
Neutral Citation: Yes/No
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MOHAMMED SHAFFIQ, J.

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To:
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