IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2025

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The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.20973 of 2024
and
W.M.P.Nos.22938 and 22939 of 2024

Tvl.Sri Balaji Steel Corporation,
GSTIN:33AGUPS0787L1ZJ,
Represented by its Proprietor, Subramaniam,
104, Ondipudur Road Corporation,
Coimbatore-641 016. ...Petitioner

Vs.

The Deputy State Tax Officer (ST),
Singanallur North Circle,
Commercial Tax Building,
Dr.Balasundaram Road,
Coimbatore- 641 018. ...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records pertaining to the impugned order in Form GST DRC-07 bearing reference number ZD3304241260991/2018-19 dated 16.04.2024 issued by the Respondent and quash the same.

For Petitioner : Mr.C.Derrick Sam
For Respondent : Mr.V.Prashanth Kiran
Government Advocate (Taxes)

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ORDER

The challenge in this writ petition is to the order dated 16.04.2024 passed by the Respondent 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 by uploading the same in the "view additional notices and orders" column of the GST portal, for which the petitioner submitted its reply on 18.01.2024 and 03.04.2024. The

personal hearing notices dated 22.03.2024 and 01.04.2024 were also issued to the petitioner by uploading the same in the GST portal, without serving physical copy of the same to the petitioner. Hence, the petitioner was not aware of the same and failed to appear for personal hearing. Subsequently, the respondent passed the impugned order dated 16.04.2024 demanding a sum of Rs.20,49,502/- towards tax along with interest and penalty for the assessment year 2018-2019. He further submitted that out of the aforesaid demand, for a sum of Rs.12,98,804/- already assessment orders were passed and appeals were also pending and the petitioner has also made a pre-deposit of 10% at the time of filing appeals. The balance amount which is not covered by earlier assessment order is only Rs.7,50,698/-. Though the same was brought to the knowledge of the respondent vide replies filed by the petitioner, the respondent failed to consider the same and passed the impugned order.

5. Further, he would submit that the demanding the sum of Rs.12,90,804/- with interest and penalties amounts to double jeopardy and against the Doctrine of double jeopardy. However, the learned counsel for

the petitioner would fairly submit that the petitioner is now ready and willing to pay a sum of Rs.1,00,000/- in the event of providing an opportunity to them to file their reply along with the required documents to substantiate their claim.

6. On the other hand, the learned Government Advocate (Taxes) would fairly submit that while passing the impugned order, there is overlapping of the demand to the extent of Rs.12,90,804/-. He therefore prays for appropriate orders.

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,though the petitioner submitted its reply to the show cause notice the petitioner failed to appear for personal hearing for the reason that the petitioner failed to notice the personal hearing notices being

uploaded in “view additional notices and orders” column of the GST portal. But the respondent without considering the replies filed by the petitioner has passed the impugned order. That apart out of the total demand of Rs.20,49,502/-for a sum of Rs.12,98,804/- already assessment orders were passed and the appeals were also pending and the petitioner has also made a pre-deposit of 10% at the time of filing appeals.

9. Hence, this Court is of the view that the impugned order was passed without application of mind and without considering the replies filed by the petitioner and also without hearing the petitioner and it is just and necessary to provide an opportunity to the petitioner to establish their case on merits.

10. In view of the aforesaid position, this Court is inclined to set aside the impugned order passed by the respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 16.04.2024 is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay a sum of Rs.1,00,000/-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 additional 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.

11. With the above directions, this writ petition is disposed of. No

costs. Consequently, connected miscellaneous petitions are closed.

04.04.2025

Index : yes/no
Neutral Citation : yes/no
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To

The Deputy State Tax Officer (ST),
Singanallur North Circle,
Commercial Tax Building,
Dr.Balasundaram Road,
Coimbatore- 641 018.

Krishnan Ramasamy,J.,

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W.P.No.20973 of 2024

04.04.2025