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W.P.No.32929 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2023

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.32929 of 2023

and

W.M.P.No.32577 of 2023

Mr.K.M.Alagarasan

... Petitioner

Vs.

The Assistant Commissioner of GST & Central Excise,
Salem-I Division,
No.106, 3rd Floor, Varalakshmi Orchid,
Ramakrishna Road, Near ATC Depot,
Salem-636 007.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records in respect of the impugned Order-in-Original vide Sl.No.08/2023 GST (AC-SLM I DIV) dated 08.08.2023 passed by the respondent herein and quash the same.

For Petitioner : Mr.Vignesh Venkat
For Respondent : Mr.M.Santhanaraman
Senior Standing Counsel



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ORDER

This Writ Petition has been filed challenging the impugned order dated 08.08.2023.

2. The case of the petitioner is that a show cause notice was issued by the respondent on 27.11.2020. Thereafter, on 01.03.2023, 03.03.2023 and 07.03.2023, personal hearing opportunities were provided to the petitioner. However, the petitioner has failed to appear on those dates. Thereafter, on 02.08.2023, final opportunity was provided, on which date, the petitioner had appeared and requested further time for filing the documents, since he has to collect it from the Public Works Department, Government of Tamil Nadu, however, in the meantime, without accepting the petitioner's request, the impugned order came to be passed on 08.08.2023.

3. Mr.Vignesh Venkat, learned counsel appearing for the petitioner would submit that documents were received from the PWD department, Government of Tamil Nadu on 06.10.2023 and therefore, prays that if any opportunity is provided, the petitioner would be able to produce the documents and putforth the case.



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4. In response, Mr.M.Santhanaraman, learned Senior Standing Counsel appearing for the respondent would vehemently contend that the petitioner was provided sufficient opportunities and final such opportunity was provided to the petitioner on 02.08.2023, and citing the reason that he to collect certain documents from the PWD Department, petitioner has taken about 3 years time. However, he would submit that if any order is passed by this Court, the same would be complied.

5. Heard both sides and also perused the materials available on record.

6. In the present case, on 02.08.2023, the respondent has fixed a date for personal hearing of the petitioner and the petitioner also appeared on the date fixed, filed his reply and requested the respondent to grant some time to file supportive documents, since the same has been held with the PWD Department, Government of Tamil Nadu and now, the petitioner is in possession of the documents, since he has received the same from P.W.D. Department on 06.10.2023, however, in the meantime, on 08.08.2023 the impugned order has been passed.



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7. In the light of the above, this Court is inclined to set aside the impugned order which was passed without the perusal of the document, which the petitioner intended to produce before the respondent in support of his case/claim.

8. Accordingly, this Writ Petition is allowed, impugned order dated 08.08.2023 is set aside and the petitioner is directed to produce the documents received on 06.10.2023 within a period of fifteen (15) days, from the date of receipt of a copy of this order before the respondent and after the receipt of the documents, the respondent is directed to fix a date for personal hearing of the petitioner, on which date, the petitioner shall appear before the respondent without taking further adjournment. Thereafter, the respondent is directed to pass the final order in accordance with law. The entire exercise is directed to be completed within a period eight (8) weeks time. No costs. Consequently, connected miscellaneous petitions is closed.

01.12.2023

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Internet: Yes

Index : Yes / No

Speaking order/Non-Speaking order

Neutral Citation : Yes / No



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To

The Assistant Commissioner of GST & Central Excise,
Salem-I Division,
No.106, 3rd Floor, Varalakshmi Orchid,
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Salem-636 007.

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KRISHNAN RAMASAMY, J.

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