BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.09.2023

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THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P.(MD)No. 23349 of 2023
and
W.M.P(MD)No. 19537 of 2023

Tvl.Padmasri Paper Boards Private Limited,
Represented by its Director R.Padma Srinivasan. ... Petitioner

Vs.

The Assistant Commissioner (ST),
Sivakasi 3 Assessment Circle,
Commercial Tax Building,
Sivakasi. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to quash the impugned Order in DRC 07 in Proc No.GSTIN 33AAFCP6391P1ZS/2017-18 dated 05.08.2023 and seeking further direction to the respondent to pass an order afresh after considering the representation, dated 27.03.2023 and 21.04.2023 judicially after affording an opportunity of personal hearing.

For Petitioner : Mr.N.Sudalaimuthu

For Respondent : Mr.A.K.Manikkam
Special Government Pleader

ORDER

This writ petition has been filed for Writ of Certiorarified Mandamus, to quash the impugned order in DRC 07 in Proc No. GSTIN 33AAFCP6391P1ZS/2017-18, dated 05.08.2023 and seeking further direction to the respondent to pass an order afresh, after considering the representations, dated 27.03.2023 and 21.04.2023, judicially after affording an opportunity of personal hearing.

2. Heard Mr.N.Sudalaimuthu, the Learned counsel appearing for the Petitioner, Mr.A.K.Manikkam, the Learned Special Government Pleader appearing for the respondent and perused the material documents available on record. With consent of both the parties this writ petition is taken up for final disposal at the admission stage itself.

3. The contention of the petitioner is that he has filed an elaborate explanation to the respondent. But, they have not considered the

submission of the petitioner. Moreover, the respondent has not granted any personal hearing. On perusal of the impugned order passed by the respondent, it is seen that personal hearing was not granted to the petitioner. Moreover, it is recorded that the petitioner has not submitted any substantial evidence, which indicates that the petitioner has submitted some evidence. As far as the respondent, the same is not sufficient for passing the assessment order. The relevant portion is extracted hereunder:

> " *The tax payer had filed reply and carefully verified, it stated that mere submissions of Annexure-1A, 1B and 1C as system generated report is not sufficient evidence. Submission of Annexure-1A, 1B and 1C is not a conclusive evidence. The Tax payer had not submit any substantial evidence for proof of payment, i.e., Bank statement. Hence, this defect is sustained.* "

4. Accordingly, this writ petition is allowed and the impugned order, dated 05.08.2023 is hereby quashed. The petitioner is directed to submit all the evidences, which he is relying on. The respondent is directed to afford personal hearing to the petitioner and thereafter, the respondent

shall pass orders, within a period of Three months, from the date of receipt of a copy of the Order. No Costs. Consequently, connected petition is closed.

25.09.2023

Index : Yes / No
Internet : Yes
NCC : Yes / No

ksa

To

The Assistant Commissioner (ST),

Sivakasi 3 Assessment Circle,
Commercial Tax Building,
Sivakasi.

S.SRIMATHY, J

ksa

Order made in
W.P.(MD)No. 23349 of 2023

25.09.2023