IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **01.02.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.995 of 2024
&
WMP Nos.1037 of 2024

M/s.F1 Auto Components Private Limited
Represented by its Managing Director,
No.150/151, 12th Main Road,
SIDCO Industrial Estate,
Thirumudivakkam, Chennai-600 044. ... Petitioner

vs

1. The Deputy Commissioner (ST),
GST Appeal, Chennai II,
Chennai-600 006.

2. The State Tax Officer,
Survey Cell-1, Intelligence-II,
Chennai-600 123. ... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus calling for the records of the first respondent in his proceedings in AP/GST/441/2021, quash the order dated 27.06.2023 passed therein and further direct the first respondent to hear the appeal in

AP/GST/441/2021 and pass a fresh order on merits after affording an opportunity of hearing to the petitioner.

For Petitioner : Mr.AP.V.Sudakar

For Respondents: Mrs.E.Ranganayaki,
Addl. Govt. Pleader (T)

ORDER

The petitioner challenges an appellate order dated 27.06.2023 on the ground that reasonable opportunity was not provided.

2. The petitioner had presented an appeal before the Deputy Commissioner (ST), GST, Appeal, Chennai-II and had remitted the requisite pre-deposit. It is stated that hearings in the appeal were scheduled from time to time and that such hearings were some times adjourned at the instance of the petitioner and at other times at the instance of the appellate authority. The petitioner states that it last received a hearing notice dated 20.06.2023 for the hearing on 23.06.2023. By an e-mail issued on 21.06.2023, the said hearing was postponed. Thereafter, it is stated that the impugned order was received in November, 2023. The present writ petition was filed in the said facts and circumstances.

3. By inviting my attention to the e-mail dated 12.11.2021, learned counsel for the petitioner submitted that the hearing scheduled on 16.11.2021 was postponed at the instance of the appellate authority. He pointed out that certain hearings such as the hearings scheduled in August 2022 were postponed at the instance of the petitioner. After receiving the e-mail of 21.06.2023 postponing the hearing on 23.06.2023, he submits that the petitioner did not receive notice for the hearing on 27.06.2023. Eventually, it is stated that the petitioner became aware that the impugned order was issued only upon receipt of such order on 06.11.2023.

4. Mrs.E.Ranganayaki, learned Additional Government Pleader, responded to these submissions by pointing out that multiple hearings were scheduled by the appellate authority, as is evident from internal pages 10 and 11 of the impugned order. By drawing reference to Section 107 of the Tamil Nadu Goods and Services Tax Act, 2017, she submits that only three adjournments should be provided by the appellate authority whereas multiple opportunities were provided to the petitioner. She also submits that a

hearing notice was issued on 22.06.2023 for the hearing on 27.06.2023 at 12.00 p.m. Hence, she contends that no interference is warranted.

5. The documents on record disclose that hearings were rescheduled either at the instance of the petitioner or the appellate authority. Although Additional Government Pleader produced the hearing notice dated 22.06.2023 for the hearing on 27.06.2023, there is no proof of service thereof on the petitioner. Since the petitioner was not heard before the appellate order was issued, the impugned order warrants interference. It should also be noticed that the petitioner made the pre-deposit while presenting the appeal.

6. Therefore, the impugned order dated 27.06.2023 is quashed and the matter is remanded to the appellate authority for reconsideration. After providing a personal hearing to the petitioner, the appellate authority is directed to dispose of the appeal within a maximum period of two months from the date of receipt of a copy of this order. The petitioner is directed to extend full co-operation by attending hearings scheduled in such regard.

7. This writ petition is disposed of on the above terms without any order as to costs. Consequently, the connected miscellaneous petition is closed.

01.02.2024

Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes / No

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To

1. The Deputy Commissioner (ST),
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   Chennai-600 006.

2. The State Tax Officer,
   Survey Cell-1, Intelligence-II,
   Chennai-600 123.

SENTHILKUMAR RAMAMOORTHY J.

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