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W.P. No.13884 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.05.2024

CORAM :

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.P.No.13884 of 2024

and

W.M.P.Nos.15057,15058,15059 & 15060 of 2024

Tvl. Sri Manikandan Plywoods,
rep. By its Proprietor,
Mr. Palani Murugan,
97/4, Ring Road,
Opp. Motham Agraharam,
Hosur- 635 109

... Petitioner

/Vs/

1. The Assistant Commissioner(ST)(FAC),
Hosur (South-1)
2. The Karur Vysya Bank,
Vasavi Street, Bangalore Bypass Road,
Hosur.
3. HDFC Bank,
Near GRT, Bangalore Bypass Road,
Hosur

...Respondents

PRAYER : Writ Petition has been filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records



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of the 1st respondent order dated 20.12.2023 in reference No.GSTIN:33ALHPP2547B1ZF/2017-18 and consequential recovery notices dated 25.04.2024 in Roc.No.GSTIN.33ALHPP2547B1ZF/2024 and Form GST DRC-13 dated 06.05.2024 passed by the 1st respondent and quash the same as it has been passed in violation of principles of natural justice.

For Petitioner : Mr. J. Adithya Reddy

For Respondent : Mr. K. Vasanthamala
Government Advocate

ORDER

The writ petition has been filed to quash the order dated 20.12.2023 in reference No.GSTIN:33ALHPP2547B1ZF/2017-18 and consequential recovery notices dated 25.04.2024 in Roc.No.GSTIN.33ALHPP2547B1ZF/2024 and Form GST DRC-13 dated 06.05.2024 passed by the 1st respondent on the ground that the proceedings have taken place violating the principles of natural justice.

2. Heard Mr. J. Adithya Reddy, learned counsel for the petitioner and Mr.K.Vasanthamala, learned Government Advocate for the respondent.



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3. The grievance of the petitioner is that show cause notice has been posted in the “View Additional Notices” tab, instead of “View Notices” tab, which is the normal practice. The petitioner would have had an opportunity to contest the proceedings effectively, if it was posted in the “View Notice” tab.

4. He has also placed reliance on the decision of this Court in the case of *Sabari Infra Pvt. Ltd. /vs/ Assistant Commissioner (ST) in W.P.Nos.22369, etc., of 2023 dated 31.07.2023* reported in *2023(10) Centax 92 (Mad.)*, wherein similar circumstances, this Court has held that the petitioner should be given a fair opportunity and the matter was remitted back to the Department to pass a fresh assessment order, after hearing the writ petitioner.

5. Following the decision passed by this Court in the above writ petition in WP. Nos.22369, etc., dated 31.07.2023, I am inclined to allow the writ petition with the following directions:

- (i) the writ petition is **allowed** and the order dated 20.12.2023 in reference No.GSTIN: 33ALHPP2547B1ZF/2017-18 and consequential recovery



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notices dated 25.04.2024 in Roc.No.GSTIN. 33ALHPP2547B1ZF/2024 and Form GST DRC-13 dated 06.05.2024 passed by the 1st respondent are set aside.

(ii) The petitioner shall deposit 10% of the Tax Component as a precondition without prejudice for being afforded a fresh hearing to object to the show cause notice.

(iii) the petitioner shall be called for an enquiry by the respondent Department and the first respondent shall pass a fresh Assessment Order in accordance with law within a period of eight weeks from today.

Consequently connected miscellaneous petitions are closed. No costs.

22.05.2024

Internet : Yes/No
Index: Yes/No
Neutral Citation: Yes/No
Speaking Order: Yes/No
mrp/rkp

To

1. The Assistant Commissioner(ST)(FAC),
Hosur (South-1)



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P.B.BALAJI, J.,

mrp/rkp

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