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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2024

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THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.15327 of 2024
and
W.M.P.Nos.16651 and 16652 of 2024

M/s.Akshitha Tyres
Represented by its Proprietor
Mr.K.Anbarasu ... Petitioner

Versus

The Assistant Commissioner (ST)
Office of the Assistant Commissioner (ST)
Krishnagiri-I Circle ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus to call for the records of the impugned order passed by the respondent in GSTIN:33ANX9510B1Z9/2017-18 dated 14.12.2023 and quash the same as illegal and consequently direct the respondent to provide a personal hearing opportunity and pass such other or further orders as this Court deem fit.

For Petitioner : Mr. Thirumalai
for Mr. V. Balamurugan

For Respondent : Mr. C. Harsha Raj
Additional Government Pleader (Tax)

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ORDER

An order in original dated 15.02.2023 is challenged on the ground that the petitioner did not have a reasonable opportunity to contest the tax proposal on merits.

2. The petitioner asserts that the show cause notice was uploaded on the portal and not communicated to the petitioner through any other mode. On account of not being aware of the show cause notice, it is stated that the petitioner could not reply thereto or participate in proceedings.

3. On instructions, learned counsel for the petitioner submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

4. Mr. C. Harsha Raj, learned Additional Government Pleader, accepts notice for the respondent. He submits that principles of natural justice were complied with by issuing intimation dated 09.08.2023, show cause notice dated 03.10.2023 and by issuing a personal hearing notice to the petitioner.

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5. On examining the impugned order, it is evident that the tax proposal was confirmed that the petitioner did not reply to the show cause notice or participate in the personal hearing. In view of the assertion that the petitioner could not participate in the personal hearing on account of not being aware of the proceedings, the interest of justice warrants that the petitioner be provided an opportunity to contest the tax proposal on merits, subject to terms.

6.For reasons set out above, the impugned order dated 14.12.2023 is set aside and the matter is remanded to the respondent for reconsideration subject to the condition that the petitioner remits 10% of the disputed tax demand within two weeks from the date of receipt of a copy of this order. Within the said period, the petitioner is permitted to submit a reply to the show cause notice. Upon receipt thereof and upon being satisfied that 10% of the disputed tax demand was received, the respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh order within three months from the date of receipt of the petitioner's reply.

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7. The Writ Petition is disposed of on the above terms. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are also closed.

20.06.2024

Index :No
Speaking
Neutral Case Citation : No

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To

The Assistant Commissioner (ST)
Office of the Assistant Commissioner (ST)
Krishnagiri-I Circle

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SENTHILKUMAR RAMAMOORTHY,J

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