



W.P.No.19725 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.19725 of 2024 &
W.M.P.Nos.21597 of 2024 & 21598 of 2024

Tvl.Guna Contractor,
Represented by its Proprietor,
Ms.Visalakshi,
No.823 A, Vandikkaran Kottai,
Devarahalli Pochampalli Taluk,
Krishnagiri, Tamil Nadu.

... Petitioner

Vs.

Deputy State Tax Officer,
Krishnagiri-II Circle,
House Division,
Tamil Nadu.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order dated 22.11.2023 in FORM GST DRC - 07 bearing GST No.33AVZPV2602H1Z7/2022-23 issued by the respondent along with the consequential Demand Order dated 22.11.2023 having Reference No.ZD3311231332053 and quash the same.

For Petitioner : M/s.S.Sanskar Samdaria

For Respondent : Mr.G.Nanmaran
Special Government Pleader (Taxes)



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ORDER

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This writ petition has been filed by the petitioner challenging the order and the consequential demand order dated 22.11.2023 passed by the respondent.

2. Mr.G.Nanmaran, learned Special Government Pleader (Taxes) takes notice on behalf of the respondent.

3. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

4. The learned counsel for the petitioner submits that all notices/communications were uploaded under the "View Notices and Orders" and "View Additional Notices and Orders" in the GST portal. However, the petitioner being a small business concern is not aware of the notices uploaded in the GST portal and thus, failed to file their reply within the time. They came to know about the notices only in May 2024, after receiving a call from the respondent. While so, without providing any opportunity to the petitioner, the respondent passed the impugned orders, demanding the payment of GST for a sum of Rs. 8,63,480/- for the assessment years 2022 and 2023, which are in violation of the principles of natural justice.



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5. On the other hand, the learned Special Government Pleader (Taxes) would submit that the respondent uploaded the notice for personal hearing in the GST Online Portal. But the petitioner failed to avail the said opportunity. He would further submit that now, the petitioner can very well present their case before the Deputy Commissioner (Appeal), since the Appellate Authority has power to remit the case. Hence, he prayed for appropriate orders.

6. In reply, the learned counsel for the petitioner would fairly submit that the petitioner is now ready and willing to pay 10% of the demand (Rs.86,348/-) made by the respondent in the event of providing an opportunity to them to file their reply/objections along with the required documents to substantiate their claim, for which, the learned Special Government Pleader (Taxes) has no serious objection.

7. Having regard to the admitted fact that the impugned orders came to be passed without hearing the petitioner in violation of the principles of natural justice, and also considering the submissions made by the learned counsel on either side, this court passes the following order:-



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(i) The orders impugned herein are set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay a sum of Rs.86,348/- (10% of demand) to the respondent on or before 04.09.2024 and the setting aside of the impugned orders will take effect from the date of payment of the said amount.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks thereafter.

(iii) On filing of such reply/objection by the petitioner, the respondent shall consider the same and pass appropriate orders on merits and in accordance with law, after providing an opportunity of personal hearing to the petitioner, as expeditiously as possible.

8. Accordingly, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

07.08.2024

Speaking/Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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r n s

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