IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY
WP.No.22352 of 2024
and W.M.P.Nos. 24344 and 24345 of 2024

Tvl.Faiz Enterprises,
Rep. by its Partner Mr.Zuhar
No.67/42, Happy Building,
Sembudoss Street, Chennai -1 .... Petitioner

Vs.

The Deputy State Tax Officer,
Broadway Assessment Circle
Walltax Road
Chennai –3. ... Respondent

Prayer:- Writ Petition is filed, under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for the records of the respondent in his proceedings in GSTIN:33AAAFF8308C1ZZ and 29.01.2024 and quash the same being illegal, invalid, without jurisdication and violated the principles of natural justice.

For Petitioner : Mr.D.Vijayakumar

For Respondents : Mr.V.Prashanth Kiran
Government Advocate(Tax)

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ORDER

The present Writ Petition has been filed to call for the records of the respondent in his proceedings in GSTIN:33BKYPM9991B1ZG/2017-18 and quash the order dated 27.12.2023.

2. The learned counsel for the petitioner submits that the respondent after scrutiny of GSTR returns, issued an intimation notice dated 07.08.2023 pointing out certain discrepancy in the returns. The petitioner by way of reply dated 22.08.2023 explained that some wrong entries were made in the returns and he also filed screen shot of the return copies. However, the respondent without appreciating the documents confirmed the proposal and levied interest and penalty. The respondent uploaded the copies of the order without following Section 169(1)(a)(b) of the GST Act and hence, the petitioner was not able to seek appropriate remedy within specified time period. Pursuant to which, the petitioner explained that the discrepancy is inadvertent mistake by uploading the GSTR returns. However, the respondent without appreciating the petitioner explanation passed the impugned order dated 29.01.2024 and the same was uploaded in the portal and hence, the petitioner was not able to defend the case. Therefore, the order passed by the respondent is in violation of principles of

natural justice. He further submitted that the petitioner is willing to deposit 10% of the disputed tax amount and hence, the order passed by the respondent may be set aside and remanded the matter back to the respondent for reconsideration.

3. The learned Government Advocate appearing for the Respondent would submit that though the notice was uploaded by the respondent in the web portal, the petitioner had failed to appear before the respondent for personal hearing. However, he would fairly submit that if any order is passed by this Court, the same will be complied with by the respondent.

4. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondent and perused the materials placed before this Court.

5. In the present case, it appears that the notice has been uploaded in the portal and the same was not at all physically served to the petitioner, due to which, the petitioner was unaware about the said notice. Hence, the reasons provided by the petitioner for being unaware of the notice, which was uploaded in the web portal, are appears to be genuine.

6. Further, this Court is of the view that no order can be passed

without providing sufficient opportunities to the petitioner. However, in the present case, no reply was filed by the petitioner and no opportunity of personal hearing was provided to the petitioner. Hence, the impugned order is liable to be set aside.

7. Accordingly, the impugned order dated 29.01.2024 is set aside and remanded the matter back to the respondent on condition that the petitioner shall deposit 10% of the disputed tax demand to the respondent, within a period of four (4) weeks from the date of receipt of a copy of this order and thereafter, the petitioner is directed to file a reply within a period of two (2) weeks. After receipt of the reply, the authorities concerned shall fix a date for personal hearing by sending a physical notice to the petitioner and thereafter, pass orders on merits and in accordance with law.

8. With the above directions, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, the connected Miscellaneous Petitions are closed.

08.08.2024

msv
Index:Yes/No
Web:Yes/No

Speaking/Non Speaking
Neutral Citation: Yes/No

To

The Deputy State Tax Officer,
Broadway Assessment Circle
Walltax Road
Chennai –3.

KRISHNAN RAMASAMY, J.

msv

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