IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2024

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THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P.No.18698 of 2024
and W.M.P.Nos.20501 and 20504 of 2024

M/s.Srinidhi Investment Advisors Private Limited,
Represented by its Director,
No.17/4, Krishnasamy Avenue,
Mylapore, Chennai - 600 004. ... Petitioner

Vs.

The Assistant Commissioner (ST) (FAC),
Mylapore, Assessment Circle,
2nd Floor, Room No.250,
The Integrated Building for Commercial Taxes &
Registration Department (South Tower),
Nandanam, Chennai - 600 035. ... Respondent

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorari, to call for the records of the respondent in his proceedings in GSTIN/33AAOCS4939H1ZZ/2018-2019 and quash the order dated 20.04.2024 passed therein.

For Petitioner : Mr.P.V.Sudakar

For Respondent : Mrs.K.Vasanthamala
Government Advocate (T)

ORDER

The present Writ Petition is filed for the issuance of a Writ of Certiorari, to call for the records of the respondent in his proceedings in GSTIN/33AAOCS4939H1ZZ/2018-2019 and quash the order dated 20.04.2024 passed therein.

2. The learned counsel for the petitioner submits that for the assessment year 2018-19, the respondent had issued a show cause notice in GST DRC-01 dated 29.12.2023 stating that examination of the information furnished in GSTR-1, GSTR-2A, GSTR-3B, EWB and other records revealed that the petitioner had not reported the correct tax liability while filing the GSTR-09 annual return filed for 2018-19 resulting in excess claim of ITC of Rs.36,707/- and ineligible claim of ITC of Rs.6,88,332/-.

3. He further submits that the said show cause notice was followed by a reminder dated 22.03.2024. The petitioner was unaware of the show cause notice and the reminder dated 22.03.2024 as they were uploaded in the GST portal under the head "View Additional Notices/Orders". Only after issuing of a second reminder dated 04.04.2024, the petitioner had come to know about the

show cause notice dated 29.12.2023. Thereafter, by letter dated 15.04.2024, the petitioner sought for an extension of time to respond to the show cause notice. On 16.04.2024, the representative of the petitioner appeared before the respondent and reiterated the request for extension of time. However, without considering all these aspects, the respondent has passed the impugned order, which is in violation of principles of natural justice. He further submits that the petitioner is ready to deposit 10% of the disputed tax demand and requests this Court to grant one more opportunity to establish their case before the respondent.

4. The learned Government Advocate for the respondent would submit that in the event of deposit of 10% of the tax demand, the request of the petitioner may be considered.

5. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondent and perused the materials on record.

6. Considering the facts that in spite of the request made by the petitioner, the respondent without providing sufficient time to file the reply of the petitioner and without affording opportunity of personal hearing, the

impugned order was passed, which is in violation of principles of natural justice, this Court is inclined to set aside the impugned order dated 20.04.2024 passed by the respondent and accordingly, the same is set aside on condition that the petitioner shall deposit 10% of the tax demand within a period of four (4) weeks from the date of receipt of a copy of this order. While setting aside the impugned order, this Court remits the matter back to the respondent for considering the request of the petitioner. The petitioner is directed to file a reply within a period of two (2) weeks from the date of receipt of a copy of this order and the respondent is directed to afford opportunity of personal hearing by providing 14 days time and thereafter, proceed with the matter in accordance with law.

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

07.08.2024

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To

The Assistant Commissioner (ST) (FAC),
Mylapore, Assessment Circle,
2nd Floor, Room No.250,
The Integrated Building for Commercial Taxes &
Registration Department (South Tower),
Nandanam, Chennai - 600 035.

KRISHNAN RAMASAMY, J.

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