IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **04.09.2024**

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THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P.No.19448 of 2024
and
W.M.P.Nos.21301 & 21302 of 2024

Tvl.Infinite Agronix
Prop. By its Proprietor S.Gopi Krishnan
No.14A/33, Thiruvalluvar Street, Nehru Nagar,
Velachery, Chennai – 600 042. ... Petitioner

Vs.

The Assistant Commissioner (ST),
T.Nagar Assessment Circle,
No.46, Greenways Road, Chennai – 600 028. ... Respondent

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorari, calling for the records of the respondent in reference No.ZD331223244952K dated 28.12.2023 and quash the same.

For Petitioner : Mr.P.Suresh Babu

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

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ORDER

The present Writ Petition is filed for the issuance of a Writ of Certiorari, to quash the impugned proceedings of the respondent in reference No.ZD331223244952K dated 28.12.2023.

2. The learned counsel for the petitioner submits that the petitioner runs a business of sales of preparations and charges for fire extinguishers within the State and registered with the State GST. The respondent has issued a show cause notice dated 08.09.2023. As the petitioner has not replied to the show cause notice, the respondent issued a Demand Order dated 05.10.2023 and thereafter, the respondent is taking steps to recover the demand amount by urgent notice dated 05.03.2024. The appeal filed by the petitioner has also been dismissed citing delay.

3. The learned counsel for the petitioner further submits that the respondent has failed to serve the copy of the notice and fix date and time for personal hearing. As sufficient opportunity has not been given, the Order passed by the respondent is illegal and liable to be set aside. He further submits

that the petitioner is ready to deposit 10% of the disputed tax demand. Hence, the impugned order passed by the respondent may be set aside.

4. The learned Additional Government Pleader for the respondent submits that though the notices were uploaded by the respondent in the GST web portal, the petitioner had failed to appear before the respondent for personal hearing and has also not filed a reply to the notices issued. However, he fairly submits that if any order is passed by this Court, the same will be complied with by the respondent.

5. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent and perused the materials placed before this Court.

6. Considering the fact that the impugned order was passed without affording an opportunity to the petitioner to establish his case before the authorities concerned, which is clear violation of principles of natural justice, this Court is of the view that no order can be passed without providing sufficient opportunities to the petitioner. Hence, the impugned order is liable to be set aside.

7. Accordingly, the impugned order passed by the respondent dated 30.09.2023 is set aside and the matter is remanded back to the respondent for fresh consideration. While setting aside the impugned Order, this Court passes the following Order :

[i] the impugned Order passed by the respondent dated 30.09.2023 is set aside on condition that the petitioner shall deposit 10% of the disputed tax demand within a period of four (4) weeks from the date of receipt of a copy of this order.

[ii] Thereafter, the petitioner is directed to file his reply within a period of two (2) weeks.

[iii] on receipt of the reply filed by the petitioner, the respondent shall fix a date for personal hearing by sending a physical notice to the petitioner providing 14 days time and thereafter, pass orders on merits and in accordance with law.

8. 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.

04.09.2024

vrc

Index : Yes/No

Neutral Citation : Yes/No

To

The Assistant Commissioner (ST),
T.Nagar Assessment Circle,
No.46, Greenways Road, Chennai – 600 028.

KRISHNAN RAMASAMY, J.

vrc

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