IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2024

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THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P.No.19891 of 2024
and
W.M.P Nos.21769 and 21770 of 2024

M/s. Sri Kumaran Forms,
GSTIN:33ABWFS5136L1ZJ,
Represented by its Partner Prabhu,
247/1, Ramathal Nagar,
Opp.Cheranmaa Nagar,
Villakurichi, Coimbatore-641 035. ... Petitioner

Vs.

The Deputy State Tax Officer-2,
Saravanampatti East Assessment Circle,
Commercial Tax Buildings,
Dr.Balasundaram Road,
Coimbatore-641 018. ... 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 pertaining to the impugned order in Form GST DRC-07 bearing reference number ZD3311231231881630/2017-18 dated 29.11.2023 issued by the respondent and quash the same.

For Petitioner : Mr.G.Derrick Sam

For Respondent : Mr.G.Nanmaran
Special Government Pleader

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ORDER

The present Writ Petition is filed for the issuance of a Writ of Certiorari, to call for the records pertaining to the impugned order in Form GST DRC-07 bearing reference number ZD3311231231881630/2017-18 dated 29.11.2023 issued by the respondent and quash the same.

2. The learned counsel for the petitioner submits that the impugned order was passed without providing opportunity to the petitioner. Since the respondent sent all the correspondences only through portal and that too in "Additional Notices and Orders" and that is why the petitioner was not able to defend the case. Even the personal hearing notice was also issued in the same portal, the petitioner has not appeared for the same. Hence, the petitioner has not filed a reply. Therefore, the order passed by the respondent is in violation of principles of natural justice. Hence, the order passed by the respondent may be set aside and remand the matter back to the respondent for reconsideration.

3. The learned Special Government Pleader for the Respondent would submit that the impugned show cause notice and the personal hearing notice were issued through the GST Portal and hence, the petitioner cannot complain of the breach of principles of natural justice, however, the Respondent will consider the matter afresh and pass fresh orders, on merits and in accordance with law.

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. Considering the facts that the notices were uploaded in the portal under the Additional Notices Column and therefore, the petitioner had no occasion to view the said column and 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 inclined to set aside the order and accordingly, the same 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 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.

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.

05.08.2024

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To

The Deputy State Tax Officer-2,
Saravanampatti East Assessment Circle,
Commercial Tax Buildings,
Dr.Balasundaram Road,
Coimbatore-641 018.

KRISHNAN RAMASAMY, J.

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