IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

WP.No.19023 of 2024
WMP.Nos.20865 and 20867 of 2024

M/s.Grace Metal Stores
Represented by its Proprietor,
Mr.Deva Sigamani,
18, Malaiappan Street, Dhasari Batma Nagar,
Maduravoyal, Chennai, Tamil Nadu 600095. Petitioner

...Vs...

The Commercial Tax Officer/State Tax Officer,
Koyambedu Assessment Circle,
1st Floor, Integrated GST Buildings,
Chennai Bangalore Highway, Varadarajapuram,
Nazarathpet, Poonamallee, Chennai-600123. Respondent

Prayer:- This Writ Petition is filed, under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for the records leading to the issuance of impugned order reference No.ZD330224024734R dated 05.02.2024 FORM GST DRC-07 along with connected proceedings GSTIN/33ADVP33AKRPD3600L2ZP/2019-2020 dated 05.02.2024, by the Respondent herein and quash the same, and direct to consider the matter afresh, after giving full and fair opportunity to the Petitioner to submit its reply and after offording opportunity of personal hearing to the Petitioner.

For Petitioner : Mr.C.Prakash

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

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O R D E R

This Writ Petition is filed for issuance of Writ of Certiorari to call for the records leading to the issuance of impugned order reference No.ZD330224024734R dated 05.02.2024 FORM GST DRC-07 along with connected proceedings GSTIN/33ADVP33AKRPD3600L2ZP/2019-2020 dated 05.02.2024, by the Respondent herein and quash the same, and direct to consider the matter afresh, after giving full and fair opportunity to the Petitioner to submit its reply and after offording opportunity of personal hearing to the Petitioner.

2. Mr.V.Prasanth Kiran, learned Government Advocate (Taxes) takes notice on behalf of the Respondent.

3. By consent of both sides, this Writ Petition is taken up and disposed of at the stage of admission itself.

4. The learned counsel for the Petitioner would submit that after the receipt of intimation from the Respondent on 19.05.2024 under Section 74 (5) of the Tamil Nadu Goods and Services Tax Act, 2017, the Petitioner sent his reply on 04.01.2023, along with required documents. Thereafter, DRC-01 notice dated 01.11.2023 was issued to the Petitioner through online mode stating that the required documents have not been uploaded through portal. He further submitted that since the petitioner had not received the same, he could not be able to give reply to the said notice due to which impugned assessment order dated 05.02.2024 came to be passed and the Petitioner came to know of the same only after the issuance of recovery notice dated 22.06.2024. Therefore, he would submit that the impugned assessment order was passed, without affording sufficient opportunity of personal hearing to the Petitioner, thereby violating the principles of natural justice. Since the Petitioner was not aware of show cause notice issued through the GST Portal, they were not able to file reply in time and even time limit for filing the Appeal before the Appellate

authority also been lapsed. In such circumstances, the learned counsel for the Petitioner seeks an opportunity to contest the tax demand on merits and on instructions, he would submit that the Petitioner agrees to make a payment of 10% of the disputed tax demand in respect of the impugned assessment period.

5. The learned Government Advocate for the Respondents would submit that since the petitioner is willing to deposit 10% of the disputed tax demand, this Court may pass necessary orders.

6. This Court heard the learned counsel on either side and also perused the materials placed on record.

7. Upon examining the impugned orders, it is evident that the tax proposal was confirmed because the Petitioner failed to reply to the show cause notice and also failed to attend the personal hearing. According to the Petitioner, the reason for not sending their reply to the show cause notice that they were not aware of the notice issued through the GST Portal and the Petitioner would be able to establish their case if an opportunity is provided. In these circumstances, it is just and necessary to provide an

opportunity to the Petitioner to contest the tax demand on merits by putting the Petitioner on terms.

8. In the aforesaid facts and circumstances, the impugned order as well as the connected Proceedings dated 05.02.2024 issued by the Respondent are set aside on condition that the Petitioner remits 10% of the disputed tax demand in respect of the impugned assessment period within a period of ***four weeks*** from the date of receipt of a copy of this order and thereafter the Petitioner is directed to file reply to the Show Cause Notice dated 01.11.2023, within a period of ***two weeks*** and on receipt of the reply, the Respondent shall consider the same and pass appropriate orders on merits and in accordance with law, after providing a reasonable opportunity to the Petitioner, including a personal hearing, within a period of four weeks thereafter.

With the above directions and terms, this Writ Petition is disposed of. No costs. Consequently, the connected MPs are closed.

05.08.2024

Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
Neutral Citation: Yes/No
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To

The Commercial Tax Officer/State Tax Officer,
Koyambedu Assessment Circle,
1st Floor, Integrated GST Buildings,
Chennai Bangalore Highway, Varadarajapuram,
Nazarathpet, Poonamallee, Chennai-600123.

KRISHNAN RAMASAMY, J.

arr

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