IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

WP.No.19601 of 2024
WMP.No.21463 of 2024

M/s.N.M.Yavar Company, by its Proprietor
I.N.Mohamed Yacoob, Periamet Chennai-3 Petitioner

Vs

The Assistant Commissioner (ST)(FAC)
Vepery Assessment Circle, Chennai-6 Respondents

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 relating to the order dated 14.05.2024 passed by the Respondent in Ref.No.TIN/33060524198/2014-15 and to quash the same.

For Petitioner : Mr.Adithya Reddy

For Respondents : Mr.G.Nanmaran, Special Government Pleader

ORDER

1. This Writ Petition is filed for issuance of Writ of Certiorari to call for the records relating to the order dated 14.05.2024 passed by the Respondent in Ref.No.TIN/33060524198/2014-15 and to quash the same..

2. The case of the Petitioner is that the Petitioner Company was closed in the year 2014 due to loss. The Petitioner also submitted necessary declaration forms. However, the impugned order was passed, proposing to revere the

Input Tax Credit, availed in the year 2014-2015. Hence, contending that the impugned order was passed, without issuing a show cause notice to the Petitioner to establish their case, thereby violating the principles of natural justice, this Writ Petition has been filed.

3. This Court heard the learned counsel on either side, considered their submissions and also perused the materials placed on record.

4. The learned counsel for the Petitioner would submit that the impugned order is not sustainable because no prior show cause notice was issued to the Petitioner before passing the impugned order, thereby violating the principles of natural justice and that if an opportunity is provided, the Petitioner would be able to establish their case and hence, the learned counsel prays to set aside the impugned order.

5. The learned Government Advocate for the Respondent would submit that appropriate orders may be passed.

6. On considering the materials available on record and the submissions of the learned counsel on either side, it is seen that admittedly the impugned order, proposing to revere Input Tax Credit was passed without issuing prior show cause notice to the Petitioner. When the Respondent Authority intends to pass an assessment order, it should be done only after issuing a show cause notice and thereafter, affording an opportunity of filing a reply to the show cause notice, including a personal hearing to the Assessee and thereafter,

considering the reply of the Assessee, as provided under law, but in this case, the 1st Respondent Authority failed to do so. Further, though the impugned order was passed 10 years after closing of the business in the year 2014 and sent to the residential address of the Petitioner, no prior show cause notice was served to the proper address.

7. In the said facts and circumstances and discussions, the impugned order is set aside and the Petitioner is permitted to file a reply before the Respondent within a period of three weeks from the date of receipt of a copy of this order and on receipt of such reply, the Respondent is directed to consider the reply of the Petitioner and dispose of the same, on merits and in accordance with law, after affording an opportunity of personal hearing to the Petitioner, within a period of eight weeks thereafter.

8. With the above directions, this Writ Petition is disposed of. No costs. Consequently, the connected MP is closed.

06.08.2024

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

To

The Assistant Commissioner (ST)(FAC)
Vepery Assessment Circle, Chennai-6

KRISHNAN RAMASAMY, J.

Srcm

WP.No.19601 of 2024

06.08.2024