IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2024

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No. 20031 of 2024
and
W.M.P.No. 21930 of 2024

M/s.The Frontine (NCR) Business
Solution Private Limited,
No.33/26, Jawaharlal Nehru Salai,
Ekkattuthangal, Chennai
Rep. by Shri.Marimuthu Anbalagan ... Petitioner

Vs.

1.The Assistant Commissioner (ST),
Ekkattuthangal Assessment Circle,
Integrated Commercial Taxes &
Registration Department Buildings,
3rd Floor, Room No.305,
Nandanam, Chennai - 600035.

2.The Deputy Commissioner (ST) - (Appeal)
Chennai - II,
No.1, Greams Road, Commercial Tax Offices,
Annex Building, Chennai - 600006.

3.The Assistant Commissioner (ST),
Mandeveli Assessment Circle,
Integrated Commercial Taxes &
Registration Department Buildings,
3rd Floor, Room No.305,
Nandanam, Chennai - 600035. ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent No.1 made in his proceedings No.GSTIN/33AABCF1233C1Z1/2018-19, dated 30.03.2024 and quash the same and consequently direct the respondent No.1 to restore the GST registration of the petitioner.

For Petitioner : Mr.K.Chandrasekar

For Respondents : Mr.T.N.C.Kaushik
Additional Government Pleader (Taxes)

O R D E R

This writ petition has been filed by the petitioner challenging the impugned order dated 30.03.2024 passed by the 1st respondent.

2. Mr.T.N.C.Kaushik, learned Additional Government Pleader (Taxes) takes notice on behalf of the respondents.

3. A show cause notice issued on 27.12.2023. Thereafter, a reply was made on 26.01.2024. The assessment order came to be passed on 30.03.2024. Immediately after filing of the reply, the petitioner paid a sum of Rs.93,65,396/- on 04.03.2024 towards GST for the financial year 2018-2019. For the same, the petitioner furnished the proof before this Court. However, in the facts and circumstance of the case, the impugned order passed have confirmed the demand made for Rs.2,59,31,138/-.

4. The grievance of the petitioner is that that the assessment order has been passed without providing any credit to the amount paid by the petitioner on 04.03.2024. Therefore, the order passed with an non-application of mind is liable to be set aside.

5. On the other hand, the learned Additional Government Pleader (Taxes) would fairly agreed that the Petitioner has already paid a sum of Rs.93,65,396/- towards the disputed tax.

6. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents and also perused the materials available on record.

7. In the present case, it appears that no opportunity of personal hearing was provided to the petitioner and without taking into account the amount already paid by the petitioner, prior to the passing of impugned order. Hence, this Court is of the view that the impugned order was passed in violation of principles of natural justice and it is just and necessary to provide an opportunity to the petitioner to establish their case on merits. In such view of the matter, this Court is inclined to set aside the impugned order dated 30.03.2024 passed by the 1st respondent. Accordingly, this Court passes the following order:-

(i) The order impugned herein is set aside.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks thereafter.

(iii) On filing of such reply/objection by the petitioner, the respondent shall consider the same and issue a 14 days clear notice by fixing the date of personal hearing to the petitioner and thereafter, pass appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.

8. Accordingly, the writ petition is allowed. There is no order as to costs. Consequently, the connected miscellaneous petition is closed.

03.09.2024

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Index : Yes/No
Speaking order:Yes/No
Neutral Citation:Yes/No

To

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KRISHNAN RAMASAMY, J.

KKN

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