IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.08.2024

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.20020 of 2024 &
W.M.P.Nos.21919 of 2024 & 21921 of 2024

M/s.Venkateswara Electrical Industries
Private Limited,
represented by its Authorised Signatory,
No.75, Kundrathur Road,
Porur, Chennai-600116. ... Petitioner

Vs.

The Assistant Commissioner (ST)(FAC)
Ayyappanthangal Assessment Circle
No.4/109, Chennai-Bangalore Highways,
Nazarathpet, Chennai-123. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records of the respondent in his proceedings in GSTIN:33AAACV0717C1Z0, quash the order dated 28.10.2023 passed therein for the tax period 2017-18.

For Petitioner : Mr.P.V.Sudakar

For Respondent : Mrs.K.Vasanthamala
Government Advocate (Taxes)

ORDER

This writ petition has been filed by the petitioner challenging the order dated 28.10.2023 passed by the respondent for the period 2017-2018.

2. Mrs.K.Vasanthamala, learned Government Advocate (Taxes) takes notice on behalf of the respondent.

3. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

4. The learned counsel for the petitioner submits that show cause notice was uploaded under the head "View Additional Notices and Orders" in the GST portal instead of "View Notices and Orders" and therefore is not aware of the same and thus, failed to file their reply to the show cause notice in time. While so, without providing any opportunity to the petitioner, the respondent passed the impugned order and the same was also uploaded in "View Additional Notices and Orders", and therefore the Show Cause Notice as well as the impugned assessment order are passed in violation of the principles of natural justice.

5. On the other hand, the learned Government Advocate (Taxes) would submit that the respondent uploaded the show cause notice in the GST Online Portal. But the petitioner failed to submit reply in time and therefore the impugned assessment order came to be passed.

6. In reply, the learned counsel for the petitioner would fairly submit that the petitioner is now ready and willing to pay 10% of the tax demand made by the respondent in the event of providing an opportunity to them to file their reply/objections along with the required documents to substantiate their claim, for which, the learned Government Order (Taxes) has no serious objection.

7. Having regard to the admitted fact that the impugned orders came to be passed without hearing the petitioner in violation of the principles of natural justice, and also considering the submissions made by the learned counsel on either side, this court passes the following order:-

> (i) The orders impugned herein are set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay 10% of the disputed tax to the respondent within a period of four weeks from the date of receipt of a copy of this

order and the setting aside of the impugned order will take effect from the date of payment of the said amount.

(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 pass appropriate orders on merits and in accordance with law, after providing an opportunity of personal hearing to the petitioner, as expeditiously as possible.

8. Accordingly, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

08.08.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No

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KRISHNAN RAMASAMY.J.,

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