IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2024

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THE HONOURABLE Mr.JUSTICE KRISHNAN RAMASAMY

W.P.No.20951 of 2024
AND
W.M.P.Nos.22902 & 22904 of 2024

Deenadayalan Uthayasankar .. Petitioner

Vs

State Tax Officer,
Maraimalainagar Assessment Circle .. Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records of the respondent leading to issuance of impugned order dated 31.12.2023 vide GSTIN.33AAAPU8074E1ZO/2017-18 and quash the same and direct the Respondent to pass order after considering the reply to be filed by the Petitioner.

For Petitioner : Mr.S.Sathyanarayanan

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

O R D E R

Challenging the show cause notice dated 31.12.2023 issued by the respondent and also for a direction to the respondent to pass order, after considering the reply to be filed by the petitioner, this writ petition has been filed.

2. The learned counsel for the petitioner submits that the petitioner received a call from the recovery department on 13.04.2024 and then only, he came to know about the impugned notice dated 31.12.2023, issued by the respondent, which was not served on him, either by email or by post. Further, the said notice was uploaded in the GST portal in "Additional Notices and Orders" and therefore, he was not able to defend his case. Therefore, the order passed by the respondent is in violation of principles of natural justice. The learned counsel further submits that the petitioner had already deposited 10% of the disputed tax demand and requests this Court to set aside the impugned order.

3. *Per contra*, the learned Government Advocate appearing for the respondent submits that all the notices were uploaded in the GST portal and therefore, it is only the fault of the petitioner. However, she would fairly concede that the petitioner had paid 10% of the disputed tax amount and submitted that if any order is passed by this Court, the same will be complied with by the respondent.

4. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondent and perused the materials placed before this Court.

5. Considering the fact that the impugned notice was only uploaded in the GST portal under the Additional Notices column and was not served on the petitioner and further, before the impugned notice was uploaded, the petitioner was not afforded an opportunity of personal hearing, which is a clear violation of principles of natural justice and the petitioner had also paid 10% of the disputed tax demand, this Court is inclined to set aside the impugned notice dated 31.12.2023 passed by the respondent and accordingly, the same is set aside and the petitioner is directed to file a reply within a period of two (2) weeks, from the date of receipt of a copy of this order and after receipt of the said reply, the respondent 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 directions, this Writ Petition is disposed of. No costs. Connected W.M.P.s are closed.

09.08.2024

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Index : Yes/No Neutral Citation : Yes/No

KRISHNAN RAMASAMY, J.

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To
State Tax Officer
Maraimalainagar Assessment Circle

W.P.No.20951 of 2024

09.08.2024