



W.P.No.20756 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.08.2024

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.20756 of 2024 &
W.M.P.Nos.22701 & 22702 of 2024

M/s.Balaram Traders,
Represented by its Proprietor,
B.S.Balaraman,
Shop No.191, KSG Street,
Bargur, Krishnagiri - 635 104.

...

Petitioner

Vs.

1.Assistant Commissioner (ST),
Krishnagiri II Circle,
Krishnagiri - 635 101.

2.The State Tax Officer,
Krishnagiri II Circle,
Krishnagiri.

...

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the connected records pertaining to the impugned proceedings of the first respondent herein made in reference No.GST33BADPB5829G1Z2 dated 15.02.2024 and the consequential order of the second respondent in her Ref: No. ZD3306241948045 dated 21.06.2024 and quash the same and consequently direct the respondent herein to pass an order afresh after affording the opportunity of personal hearing to the petitioner herein.



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For Petitioner : Mr.Manoharan S Sundaram

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

ORDER

This Writ Petition has been filed by the petitioner challenging the order of the first respondent dated 15.02.2024 and the consequential order dated 21.06.2024 passed by the second respondent.

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

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 would submit that all notices/communications were uploaded under the "View Notices and Orders" and "View Additional Notices and Orders" in the GST portal. However, the petitioner being a small business concern is not aware of the notice uploaded in the GST portal and thus, failed to file their reply within the time. They came to know about the notice only after receiving a phone call from the respondent. While so, without providing any opportunity to the petitioner, the first respondent passed the impugned order, demanding the payment of GST



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for a sum of Rs.12,91,710/- for the assessment year 2018-2019, which is in violation of the principles of natural justice.

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5. On the other hand, the learned Additional Government Pleader (Taxes) would submit that the first respondent uploaded the notice for personal hearing in the GST Online Portal. But the petitioner failed to avail the said opportunity. He would further submit that now, the petitioner can very well present their case before the Deputy Commissioner (Appeal), since the Appellate Authority has power to remit the case. Hence, he prayed for appropriate orders.

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 demand (Rs.12,91,710/-) made by the first 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 Additional Government Pleader (Taxes) has no serious objection.

7. Heard the learned counsel for the petitioner and the learned Additional Government Pleader (Taxes) for the respondents and also perused the materials available on record.



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8. In the present case, it appears that no opportunity of personal hearing was provided to 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 15.02.2024 passed by the first respondent. Accordingly, this Court passes the following order:-

(i) The order impugned herein is set aside and the matter is remanded to the first respondent for fresh consideration on condition that the petitioner shall pay a sum of Rs.12,91,710/- (10% of demand) to the first 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 first 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.



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9. Accordingly, the Writ Petition is disposed of. There is no order

as to costs. Consequently, the connected Miscellaneous Petitions are closed.

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Speaking/Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

sri

To

1.The Assistant Commissioner (ST),
Krishnagiri II Circle,
Krishnagiri - 635 101.

2.The State Tax Officer,
Krishnagiri II Circle,
Krishnagiri.



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KRISHNAN RAMASAMY.J.,
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