IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

WP.No.21033 of 2024
and W.M.P.Nos. 22992, 22999,23003, 23214 and 23217 of 2024

Tvl.Bharani Coir Mills
Represented by its Proprietor
Mr.Jayaprakash Ramamoorthy
7-299-1,Thasampalayam Street
Bommanaikanpalayam
Kugalur Village Gobichettipalayam Erode,

Tamilnadu - 638476 .... Petitioner

Vs.

1 The Deputy Commercial Tax Officer (FAC)
Gobichettipalayam Circle
54 Bharathi Street Gobichettipalayam
Erode District - 638 452.

2 Assistant Commissioner (ST)
Gobichettipalayam Asst. Circle
Gobichettipalayam.

3 Deputy Commissioner (ST)
Erode - 638 001

4 The Branch Manager
Hdfc Bank Ltd
24, Mill Road
Gobichettipalayam.

5 Travancore Mats And Matting
Private Ltd
055/76C Nar Vellaipillayar Kovil
Devapuram, Bhavani
Erode 638 301

6 Oxygen Coir Products
10/111 Vasanth Nagar Nathakkadaiyur
Kangayam Tiruppur 638 108 ... Respondents

Prayer:- Writ Petition is filed, under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for the records on the file of the 1st Respondent herein in FORM GST DRC - 07 with Ref. No.ZD3310231111304B dated 18.10.2023 quash the same.

For Petitioner : Ms.Vishnu Priya. S
for Mr.N.Prasad

For Respondents : Mr.V.Prashanth Kiran
Government Advocate(T)

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O R D E R

The present Writ Petition has been filed challenging impugned order dated 18.10.2023 passed by the 1st Respondent herein in FORM GST DRC - 07 with Ref. No.ZD3310231111304B.

2. The learned counsel for the petitioner submits that the only summary in form GST DRC-07 has been uploaded on the GST portal and

the same is ex-facie contrary to Section 75(6) of the GST Act. Both the show cause notice as well as the impugned order were not served on the petitioner and only uploaded in the GST online portal and the petitioner was not able to defend the case. Hence, the petitioner has not filed a reply. Therefore, the impugned order is in violation of principles of natural justice. He further submits that the petitioner is willing to deposit 30% of the disputed tax demand and hence, the order passed by the 1st respondent may be set aside and remanded the matter back to the respondent for reconsideration.

3. The learned Government Advocate appearing for the Respondents 1 to 3 would submit that though the notice was uploaded by the respondent in the web portal, the petitioner had failed to appear before the respondent for personal hearing. However, he would fairly submit 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 for the respondents 1 to 3 and perused the materials placed before this Court.

5. In the present case, it appears that the notices have been uploaded in the GST portal and the same were not at all physically served to the petitioner, due to which, the petitioner was unaware about the said notice. Hence, the reasons provided by the petitioner for being unaware of the notice, which was uploaded in the web portal, are appears to be genuine.

6. Further, this Court is of the view that no order can be passed without providing sufficient opportunities to the petitioner. However, in the present case, no reply was filed by the petitioner and no opportunity of personal hearing was provided to the petitioner. Hence, the impugned order is liable to be set aside.

7. Accordingly, the impugned order dated 18.10.2023 is set aside and remanded the matter back to the respondent on condition that the petitioner shall deposit 40% of the disputed tax demand of the impugned assessment year, within a period of four (4) weeks from the date of receipt of a copy of this order and thereafter, the petitioner is directed to file a reply within a period of two (2) weeks. After receipt of the reply, the authorities concerned 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.

8. With the above directions, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, the connected Miscellaneous Petitions are closed.

08.08.2024

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

To

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Gobichettipalayam Circle
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Erode District - 638 452.

2 Assistant Commissioner (ST)
Gobichettipalayam Asst. Circle
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KRISHNAN RAMASAMY, J.

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