



WEB COPY



W.P.No.20811 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.20811 of 2024 &
W.M.P.Nos.22765 & 22769 of 2024

Fortune Packaging,
C228, New No.16, 11th Street,
Siva Elango Salai,
Chennai - 600 082.

...

Petitioner

Vs.

Deputy State Tax Officer-I /
Deputy Commercial Tax Officer
Perambur Assessment Circle
No.15 & 16, Malliga Avenue,
Kolathur, Chennai - 600 099.

...

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 herein in impugned order in GSTIN:33AABFF5048GIZR/2017-18 dated 14.12.2023 consequential DRC-07 in Reference No:ZD331223100368W dated and 14.12.2023 for the FY 2017-18 passed by the respondent and quash the same.

For Petitioner : M/s.G.Vardini Karthik

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



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ORDER

This Writ Petition has been filed by the petitioner to quash the impugned order dated 14.12.2023 passed by the respondent.

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 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 call from the respondent. While so, without providing any opportunity to the petitioner, the respondent passed the impugned order, demanding the payment of GST for a sum of Rs.1,12,35,380/- for the assessment year 2017-2018, which is in violation of the principles of natural justice.



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5. On the other hand, the learned Government Advocate (Taxes) would submit that the respondent uploaded the notice for personal hearing in the GST Online Portal. But the petitioner failed to avail the said opportunity. She 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.1,12,35,380/-) 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 Advocate (Taxes) has no serious objection.

7. Heard the learned counsel for the petitioner and the learned Government Advocate (Taxes) for the respondent 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 14.12.2023 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The order impugned herein is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay a sum of Rs.1,12,35,380/- (10% of demand) 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 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.

09.08.2024

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

sri

To

The Deputy State Tax Officer-I /
Deputy Commercial Tax Officer
Perambur Assessment Circle
No.15 & 16, Malliga Avenue,
Kolathur, Chennai - 600 099.



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KRISHNAN RAMASAMY.J.,
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