IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

WP.No.20670 of 2024
and W.M.P.Nos.22608 and 22609 of 2024

Tvl.Mahesh Engineering Industries,
GSTIN:33ASJPS6507R1ZZ
Represented by its Proprietor Jayaprakash Shanthi,
827/1A, Ramasamy Nagar/Karuparayanpalayam -via,
Chinniyampalayam-PO,
Coimbatore-641 062. .... Petitioner

Vs.

The Assistant Commissioner (ST)
Saravanampatti East Circle, Commercial Tax Buildings,
Dr Balasundaram Road,
Coimbatore – 641 018 ... Respondent

Prayer:- Writ Petition is filed, under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for the records pertaining to the impugned order in Form GST DRC – 07 bearing reference number ZD331223270569B/2017-18 dated 30.12.2023 issued by the respondent and quash the same.

For Petitioner : Mr.G.Derrick Sam

For Respondents : Mr.C.Harsha Raj
Additional Government Pleader(Tax)

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ORDER

The present Writ Petition has been filed for issuance of a Writ of Certiorari, to call for the records pertaining to the impugned order in Form GST DRC - 07 bearing reference number ZD331223270569B/2017-18, dated 30.12.2023 issued by the respondent and quash the same.

2. The learned counsel for the petitioner submits the intimation notice in Form GST DRC-01A dated 23.09.2023, show cause notice in Form GST DRC-01, dated 18.12.2023, Reminder dated 27.12.2023 and the impugned order in Form GST DRC -07 reference number ZD331223270569B/2017-18 dated 30.12.2023 were uploaded in the portal and that too in "view additional notices and orders" and that is why the petitioner was not able to defend the case. Even the personal hearing notice was also issued in the same portal, the petitioner has not appeared for the same. Hence, the petitioner has not filed a reply. Therefore, the order passed by the respondent is in violation of principles of natural justice. He further submitted that the petitioner is willing to deposit the entire disputed tax amount and hence, the order passed by the respondent may be set aside and remanded the matter back to the respondent for reconsideration.

3. The learned Additional Government Pleader appearing for the Respondent 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 Additional Government Pleader for the respondent and perused the materials placed before this Court.

5. In the present case, it appears that the notices have been uploaded in the portal under the "view additional notices and orders" column 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 30.12.2023 is set aside and remanded the matter back to the respondent on condition that the petitioner shall deposit the entire disputed tax demand of the 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

The Assistant Commissioner (ST)
Saravanampatti East Circle,
Commercial Tax Buildings,
Dr Balasundaram Road,
Coimbatore – 641 018

KRISHNAN RAMASAMY, J.

msv

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