IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

WP.No.20752 of 2024
and W.M.P.Nos. 22695 and 22698 of 2024

Tvl. Sri Selvi Stores,
Represented by Partner V.Ramachandran,
282, Main Road, Shevapet,
Salem, Tamilnadu - 636002 .... Petitioner

Vs.

The Assistant Commissioner,
Gugai Circle,
Salem, Tamil Nadu ... Respondent

Prayer:- Writ Petition is filed, under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for the records of the impugned order of the respondent in GSTIN:33AAEFS8194H1ZW/2018-19 dated 27.04.2024 along with order and summary of the order in Form GST DRC-07 in Ref.No.ZD33042421941 dated 27.04.2024 and quash the same and consequently direct the respondent to entertain the records, documents and reply from the petitioner.

For Petitioner : Mr.M.Hariharan

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

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ORDER

The present Writ Petition has been filed challenging the impugned order of the respondent in GSTIN:33AAEFS8194H1ZW/2018-19 dated 27.04.2024 along with order and summary of the order in Form GST DRC-07 in Ref.No.ZD33042421941 dated 27.04.2024 and consequently direct the respondent to entertain the records, documents and reply from the petitioner.

2. The learned counsel for the petitioner submits that the respondent has levied tax on the ground of alleged incorrect tax liability from the annual returns of GSTR-09 was filed and the impugned order dated 27.04.2024 was uploaded in the portal and that too in "view additional notices and orders" and 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 10% of the 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 Government Advocate 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 Government Advocate 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 27.04.2024 is set aside and

remanded the matter back to the respondent on condition that the petitioner shall deposit 10% of the disputed tax demand to the respondent, 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,
Gugai Circle,
Salem, Tamil Nadu

KRISHNAN RAMASAMY, J.

msv

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and W.M.P.Nos.22695
and 22698 of 2024

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