



WEB COPY



W.P.No.22381 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2024

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THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P.No.22381 of 2024
and W.M.P.Nos.24382 and 24383 of 2024

Krith Enterprises,
Represented by its Proprietor Manickam Muthukrishnan,
10 C/3, Appachi Gounder Thottam,
Sankari RS Post, Sankari,
Salem, Tamil Nadu - 637 302.

... Petitioner

Vs.

The State Tax Officer (FAC),
Sankari Assessment Circle,
Office of the Assistant Commissioner (ST),
1st Floor, Tiruchengode Road, RDO Complex,
Sankari - 637 301.

... Respondent

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorari, to call for the records relating to the impugned order No.ZD331223281028O, dated 30.12.2023 passed by the respondent under Section 73 of the Central Goods and Service Tax Act, 2017, r/w the corresponding provision under the Tamil Nadu Goods and Services Tax Act, 2017, for the year 2017-18 and quash the same.



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W.P.No.22381 of 2024

For Petitioner : Mr.V.Srinivasan
For Respondent : Mr.G.Nanmaran
Special Government Pleader

ORDER

This Writ Petition is filed for the issuance of a Writ of Certiorari, to call for the records relating to the impugned order No.ZD331223281028O, dated 30.12.2023 passed by the respondent under Section 73 of the Central Goods and Service Tax Act, 2017, r/w the corresponding provision under the Tamil Nadu Goods and Services Tax Act, 2017, for the year 2017-18 and quash the same.

2. The learned counsel for the petitioner submits that the petitioner's contentions were dismissed in the impugned order without any reason and only one personal hearing was afforded before the due date to file reply to the show cause notice instead of four personal hearings as per Section 75(5) of the Income Tax Act. All the notices and order 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. Therefore, the order passed by the respondent is in violation of principles of natural justice. Hence, the order



W.P.No.22381 of 2024

passed by the respondent may be set aside and remanded the matter to the respondent for reconsideration.

3. The learned Special Government Pleader for the respondent would submit that the notices and orders were issued through the GST Portal and hence, the Petitioner cannot complain of the breach of principles of natural justice. He also submits that in the event of deposit of 10% of the tax demand, the request of the petitioner may be considered.

4. Heard the learned counsel for the petitioner and the learned Special Government Pleader for the respondent and perused the materials placed before this Court.

5. Considering the fact that the petitioner was not provided sufficient opportunity of personal hearing and non consideration of the reply filed by the petitioner and the reasons stated by the petitioner are appears to be genuine, this Court is inclined to set aside the impugned order No.ZD331223281028O, dated 30.12.2023 and accordingly, the same is set aside 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



W.P.No.22381 of 2024

receipt of a copy of this order. While setting aside the impugned order, this

Court remits the matter back to the respondent for reconsideration. The petitioner is directed to file their reply within a period of two (2) weeks and on receipt of the reply filed by the petitioner, the authorities concerned shall fix a date for personal hearing by sending a physical notice to the petitioner providing 14 days time and thereafter, pass orders on merits and in accordance with law.

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.

13.08.2024

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To

The State Tax Officer (FAC),
Sankari Assessment Circle,
Office of the Assistant Commissioner (ST),
1st Floor, Tiruchengode Road, RDO Complex,
Sankari - 637 301.



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KRISHNAN RAMASAMY, J.

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