IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2024

CORAM

THE HONOURABLE Mr.JUSTICE KRISHNAN RAMASAMY

W.P.No.20966 of 2024
AND
W.M.P.Nos.22926 and 22927 of 2024

Tvl.SAP Marketing,
GSTIN: 33AADHV7039K1ZT,
represented by its Karta Proprietor V.Selvaraj,
88, K N K Road Karungalpalayam,
Erode – 638 003. .. Petitioner

Vs

The State Tax Officer,
Nethaji Assessment Circle,
Commercial Tax Buildings,
No.1,Brough Road,
Erode – 638 001. .. Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari call for the records pertaining to the impugned order in Form GST DRC - 07 bearing reference number ZD3304240966084/2018-19 dated 12.4.2024 issued by the Respondent and quash the same.

For Petitioner	:	Mr.G.Derrick Sam
For Respondents	:	Mrs.K.Vasanthamala, Government Advocate (Tax)

O R D E R

Challenging the order dated 12.04.2024 passed by the respondent in Form GST DRC-07 bearing reference No.ZD3304240966084/2018-19, this writ petition has been filed.

2. The learned counsel for the petitioner submits that for the show cause notice in Form GST DRC-01 dated 28.12.2023 issued by the respondent to the petitioner, he had submitted his reply on 24.01.2024. Meanwhile, the petitioner requested an adjournment for the hearing on 12.01.2024, because of prior engagement and failed to follow the notices for hearing on 16.02.2024 and 14.03.2024, which were uploaded in the GST web portal under "view additional notices and orders" and that is why, he was not able to defend his case. Further, the notice of hearings were not served on the petitioner as per Section 169 of the GST Act. In this circumstance, without considering the reply of the petitioner, the respondent passed an order on 12.04.2024, which is in violation of principles of natural justice. The learned counsel further submits that the petitioner is willing to deposit 10% of the disputed tax demand. Hence, the order passed by the respondent may be set aside.

3. The learned Government Advocate appearing for the Respondent would submit that though opportunities were granted to the petitioner, he had not replied within the stipulated time and he had also not appeared for the personal hearing.

4. Heard the learned counsel for the petitioner and the learned Government Advocate appearing 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 GST web portal under the "view additional notices and orders" and the same were not at all physically served on the petitioner, due to which, he was unaware about the said notices. Hence, the reasons provided by the petitioner for being unaware of the notices which were uploaded in the GST web portal, appears to be genuine.

6. Considering the fact that the petitioner was not provided sufficient opportunity of personal hearing and non-consideration of the reply filed by him and the reasons stated by him are appears to be genuine, this Court is inclined

to set aside the order dated 12.04.2024 passed by the respondent and accordingly, the same is set aside, on condition that the petitioner deposits 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. Thereafter, the respondent shall fix a date for personal hearing, by sending a notice by way of 'RPAD' to the petitioner and after hearing the petitioner, the respondent shall pass appropriate orders on merits and in accordance with law.

With the above directions, this writ petition is allowed. No costs. Connected W.M.P.s are closed.

09.08.2024

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Index : Yes/No
Neutral Citation : Yes/No

To

The State Tax Officer,
Nethaji Assessment Circle,
Commercial Tax Buildings,
No.1,Brough Road,
Erode – 638 001.

KRISHNAN RAMASAMY, J.

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W.P.No.20966 of 2024

09.08.2024