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W.P.No.21865 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.21865 of 2024
and
W.M.P Nos.23862 and 23863 of 2024

Witzenmann India Private Limited,
Represented by the Managing Director,
119, Thiruneermalai Road, Chrompet,
Chennai, Kancheepuram, Tamil Nadu - 600 044.

... Petitioner

Vs.

The Assistant Commissioner (State Taxes),
Pammal Assessment Circle,
Room No.349, 3rd Floor,
Integrated Commercial Taxes Offices Building,
Govt. Farm Village, Nandanam,
Chennai - 600 035.

... 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 in the proceedings of the respondent in Order in Order bearing No.GSTIN 33AAACH7739L1ZB/2018-19, dated 29.04.2024 and quash the same.



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For Petitioner : Mr.Joseph Prabakar

For Respondent : Mr.C.Harsha Raj
Additional Government Pleader (T)

ORDER

The present Writ Petition is filed for the issuance of a Writ of Certiorari, to call for the records in the proceedings of the respondent in Order in Order bearing No.GSTIN 33AAACH7739L1ZB/2018-19, dated 29.04.2024 and quash the same.

2. The learned counsel for the petitioner submits that the impugned order has been passed in gross violation of principles of natural justice since opportunity of personal hearing contemplated under Section 75(4) of the CGST Act, 2017, was not granted to the petitioner and the impugned order is cryptic and non-speaking and the explanations offered by the petitioner has not been considered.



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3. He further submits that the petitioner filed all the details as also the necessary documents to prove that they are not liable to pay the Tax as demanded by the respondent. However, the respondent did not consider the documents. Hence, the impugned order is liable to be quashed.

4. The learned Additional Government Pleader (T) for the respondent would submit that after careful examination of the reply filed by the petitioner, the impugned order was passed. However, he would fairly submit that if any order is passed by this Court, the same will be complied with by the respondent.

5. Heard the learned counsel for the petitioner and the learned Additional Government Pleader (T) appearing for the respondent and perused the materials available on record.



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6. Considering the facts that the impugned order was passed without affording an opportunity to the petitioner to establish his case before the authorities concerned, which is clear violation of principles of natural justice and the necessary documents filed by the petitioner were not considered, this Court is of the view that no order can be passed without providing sufficient opportunities to the petitioner. Hence, the impugned order is liable to be set aside.

7. Accordingly, the impugned order passed by the respondent dated 29.04.2024 is set aside on condition that the petitioner shall deposit 10% of the disputed tax demand within a period of four (4) weeks from the date of receipt of a copy of this order. While setting aside the impugned order, this Court is inclined to remand the matter to the respondent for consideration and accordingly, the matter is remitted back to the respondent. 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 respondent 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.



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With the above direction, 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 Assistant Commissioner (State Taxes),
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KRISHNAN RAMASAMY, J.

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