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W.P.No.21923 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.08.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.21923 of 2024

and

W.M.P.Nos.23909 & 23910 of 2024

Rajaram Automobiles,
Represented by its Proprietor L.Patharam,
51, Jeeva Complex Sevalai Road,
Tirukovilur, Villupuram,
Tamil Nadu-605 757.

...Petitioner

Vs.

The Deputy State Tax Officer,
Tirukoilur.

... Respondent

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the Respondent's order dated 28.12.2023 in Reference No.GSTIN:33BNHPP2782D1Z1/17-18 and to quash the same.

For Petitioner : Ms.N.Janani

For Respondent : Mr.G.Nanmaran

Special Government Pleader (T)

ORDER

This Writ Petition has been filed by the petitioner challenging the order dated 28.12.2023 passed by the respondent for the financial year 2017-



W.P.No.21923 of 2024

WEB COPY

2. Mr.G.Nanmaran, learned Special Government Pleader (T), takes notice on behalf of the respondent. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. Alleging that there is a mismatch of tax liability between GSTR-3B and GSTR-2A filed by the petitioner for the financial year 2017-2018, the respondent passed an impugned order 28.12.2023, demanding the payment of the differential amount with interest and penalty.

4. The learned counsel for the petitioner submitted that the Show Cause Notice raised on the petitioner in the GST common portal. Since the petitioner's GST registration was cancelled, the petitioner had no occasion to gone through the GST Portal. Hence, the petitioner failed to reply the said Show Cause Notice. He submitted that even an impugned order was uploaded in the GST portal and the physical version of such order was not served on the petitioner. Further, he would submit that the petitioner came to know about the impugned order only on account of initiation of recovery proceedings. Hence,



W.P.No.21923 of 2024

he sought for appropriate orders from this Court for affording an opportunity to the petitioner to present the case by way of filing a suitable reply and participate in the proceedings.

5. Heard the learned counsel for the petitioner as well as the learned Special Government Pleader for the respondent and perused the materials available on record.

6. Considering the above submissions made by the learned counsel on either side and upon perusal of the materials, it is evident that the impugned show cause notice was uploaded on the GST Portal Tab. According to the petitioner, the petitioner was not aware of the issuance of the show cause notice issued through the GST Portal and the original of the said show cause notice was not furnished to them. In such circumstances, this Court is of the view that the impugned order came to be passed without affording any opportunity of personal hearing to the petitioner to establish its case, thereby violating the principles of natural justice and that it is just and necessary to provide an opportunity to the petitioner to establish their case on merits and in accordance with law.



W.P.No.21923 of 2024

WEB COPY

7. For the reasons stated above, this Court is inclined to set aside the impugned order dated 28.12.2023 passed by the respondent with the following directions:-

(i) The order impugned herein is set aside and the matter is remanded to the respondent for fresh consideration.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks from the date of receipt of a copy of this order.

(iii) On receipt of such reply/objection by the petitioner, the respondent shall consider the same and pass appropriate orders on merits and in accordance with law, after providing an opportunity of personal hearing to the petitioner, as expeditiously as possible.

8. Accordingly, the Writ Petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

12.08.2024

Speaking/Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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WEB COPY



W.P.No.21923 of 2024

Krishnan Ramasamy,J.,
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To

The Deputy State Tax Officer,
Tirukoilur.

W.P.No.21923 of 2024

12.08.2024