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.22197 of 2024**
**and**
**W.M.P Nos.24165 and 24166 of 2024**

M/s.Sri Venkateswara Electricals & Hardware,
Represented by its Proprietor,
P.Senthilkumar,
No.234, BCR Complex, Jagadevi Main Road,
Bargur, Krishnagiri District - 635 104. ... Petitioner

Vs.

The Assistant Commissioner (State Taxes),
Krishnagiri II Circle,
Krishnagiri - 635 001. ... Respondent

**PRAYER:** This Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorarified Mandamus, to call for the connected records pertaining to the impugned proceedings of the respondent herein made in GST:33AZMPS4327D1ZD/17-18, dated 05.01.2024 and quash the same as illegal and consequently, direct the respondent to pass an order afresh affording the opportunity of personal hearing to the petitioner.

For Petitioner : Mr.Manoharan Sundaram

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

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**ORDER**

The present Writ Petition is filed for the issuance of a Writ of Certiorarified Mandamus, to call for the connected records pertaining to the impugned proceedings of the respondent herein made in GST:33AZMPS4327D1ZD/17-18, dated 05.01.2024 and quash the same as illegal and consequently, direct the respondent to pass an order afresh affording the opportunity of personal hearing to the petitioner.

2. The learned counsel for the petitioner submits that the respondent has not communicated the show cause notice in Form GST DRC 01A dated 29.08.2023 as well as the notice in Form GST DRC 01 dated 21.09.2023 and the notice providing opportunity of personal hearing on 20.10.2023 either through E-mail ID of the petitioner herein or through physical mode of service. The petitioner came to know about the impugned

order levying tax, interest and penalty only after the respondent has issued notice to the Bank to recover the amount and the copy of letter addressed to the bank was also not sent to the petitioner. The impugned proceedings of the respondent demanding excess claim of input tax credit, interest and penalty and consequent recovery are illegal. The impugned order is nothing but non-speaking order and therefore, the same is liable to be quashed.

3. The learned Additional Government Pleader (T) for the respondent would submit that though the notices were 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 Additional Government Pleader (T) appearing for the respondent and perused the materials available on record.

5. Considering the facts that all the notices were uploaded in the portal under the "Additional Notices/Orders" and therefore, the petitioner had no occasion to view the said column and 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, 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.

6. Accordingly, the impugned order passed by the respondent dated 05.01.2024 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.

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),
Krishnagiri II Circle,
Krishnagiri - 635 001.

**KRISHNAN RAMASAMY, J.**

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