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W.P.No.22308 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.22308 of 2024
and W.M.P.No.24290 of 2024

M/s.Kanamadagu Renewable Energy Private Limited,
Rep. by its Director Mr.Satheesh Basant,
GSTIN: 33AAGCK2599D1ZJ,
First Floor, 34, Defence Officers Colony,
Ekkattuthangal, Chennai - 600 032.

... Petitioner

Vs.

The Commercial Tax Officer,
Ekkatuthangal Assessment Circle,
Integrated Registration and Commercial Taxes Building,
Room No.306, 3rd Floor,
Nandanam, Chennai - 35.

... 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 records in the file of the impugned order No.GSTIN/33AAGCK2599D1ZJ/2017-18, dated 21.12.2023 issued electronically and uploaded in the Common Portal along with its summary in Form DRC-07 Ref.No.ZD331223161266P, dated 21.12.2023 and to quash the same with consequential relief to direct the respondent to re-credit the amount to the petitioner Electronic Cash Ledger.

For Petitioner : Ms.S. Akila



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For Respondent : Mr.K.Vasanthamala
Government Advocate (T)

ORDER

The present Writ Petition is filed for the issuance of a Writ of Certiorarified Mandamus, to call for the records in the file of the impugned order No.GSTIN/33AAGCK2599D1ZJ/2017-18, dated 21.12.2023 issued electronically and uploaded in the Common Portal along with its summary in Form DRC-07 Ref.No.ZD331223161266P, dated 21.12.2023 and to quash the same with consequential relief to direct the respondent to re-credit the amount to the petitioner Electronic Cash Ledger.

2. The learned counsel for the petitioner submits that the respondent had issued show cause notice for mismatch in GSTR-3B and GSTR-2A returns vide Ref.No.GSTIN/33AAGCK2599D1ZJ/2017-18, dated 27.09.2023 to the petitioner, which was uploaded in the GSTN Common Portal in Form DRC-01 Ref.No.ZD330923255964Z, dated 30.09.2023 and also the reminders for the show cause notice was issued in the common portal, which was not noticed by the petitioner. Hence, the Company was not aware of any proceedings under 73 of the CGST Act, 2017. Thereafter, the respondent passed



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an *ex parte* order against the petitioner dated 21.12.2023.

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3. He further submits that after lapse of the appeal period, the officers from the respondent's office contacted the petitioner for the recovery of the amount confirmed in the impugned order after debiting an amount of Rs.1,94,310/- from the Electronic Cash/Credit Ledge of the petitioner on 26.04.2024. Only at that time, the petitioner came to know about the demand orders of the respondent. The amount demanded in the impugned order is not legal and proper as the limitation for filing an appeal has lapsed, by the time, the petitioner came to know about the order, the Appellate authority declined to receive the appeal filed on the ground of limitation. Hence, the impugned order may be set aside and remand the matter to the respondent for re-consideration.

4. The learned Government Advocate (T) for the respondents 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 hearings. 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



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Government Advocate (T) for the respondents and perused the materials placed before this Court.

6. Considering the facts that all the notices and orders were uploaded in the common portal 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.

7. Accordingly, the impugned order passed by the respondent dated 21.12.2023 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 re-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



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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 Petition is closed.

13.08.2024

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To

The Commercial Tax Officer,
Ekkatuthangal Assessment Circle,
Integrated Registration and Commercial Taxes Building,
Room No.306, 3rd Floor,
Nandanam, Chennai - 35.



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KRISHNAN RAMASAMY, J.

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