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W.P.No.21772 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

WP.No.21772 of 2024
and W.M.P.Nos. 23750 to 23752 of 2024

Candour Auto Components
Represented by its Partner Mr.Kasinathan Ilaiyaraja
No.13, NA, Nadaipadai Road,
Kundrathur, Chennai,
Kancheepuram, Tamil Nadu 600069
Now at
H-3, Pesil Garden, 2nd Street,
Erandamkattalai, Kundrathur 600 128
Vs. Petitioner

1.Deputy Commercial Tax Officer/
Deputy State Tax Officer-2
Kundrathur Assessment Circle,
Sriperumbudur: Kancheepuram,
Tamil Nadu – 600 123.

2.Deputy Commissioner (ST),
Kanchipuram Zone,
Commercial Taxes Building, 1st Floor,
Kanchipuram Collectorate Campus,
Kanchipuram – 631501. ... Respondents

Prayer:- Writ Petition is filed, under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for the records of the respondents and quash the impugned order under Section 73 of the Tamil



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Nadu Goods and Service Tax Act, 2017 (“TNGST Act”)/Central Goods and Service Tax Act, 2017 [“CGST Act”] dated 12.12.2023 along with its annexure and the consequent Summary of the Order in Form GST DRC-07 dated 12.12.2023 both passed by the first respondent and both having Reference Number ZD331223074123X in GSTIN/ID: 33AAJFC2392Q1Z0 for the FY 2017-18.

For Petitioner : Mr.N.V.Balaji

For Respondents : Mr.G.Nanmaran,
Special Government Pleader(Tax)

ORDER

The present Writ Petition has been filed to call for the records of the respondents and quash the impugned order under Section 73 of the Tamil Nadu Goods and Service Tax Act, 2017 (“TNGST Act”)/Central Goods and Service Tax Act, 2017 [“CGST Act”] dated 12.12.2023 along with its annexure and the consequent Summary of the Order in Form GST DRC-07 dated 12.12.2023 both passed by the first respondent and both having Reference Number ZD331223074123X in GSTIN/ID: 33AAJFC2392Q1Z0 for the FY 2017-18.

2. The learned counsel for the petitioner submits that the show cause notice under Section 73 of the TNGST Act/CGST Act dated 12.12.2023 was issued raising a demand of Rs.33,97,729/- for FY 2017-2018



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including interest and penalty on the ground that the petitioner has availed excess input tax credit. The sole basis for making the allegation is that petitioner has availed input tax credit in excess of input tax credit statement as reflected in Form GSTR-2A. Both the show cause notice as well as the impugned order were not served on the petitioner and only uploaded in the GST online portal and the petitioner was not able to defend the case. Hence, the petitioner has not filed a reply. Therefore, the order passed by the respondent is in violation of principles of natural justice. He further submits that the petitioner is willing to deposit 10% of the disputed tax demand and hence, the order passed by the respondent may be set aside and remanded the matter back to the respondent for reconsideration.

3. The learned Special Government Pleader appearing for the Respondent would submit that though the notice was 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 Special



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Government Pleader 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 portal and the same were not at all physically served to the petitioner, due to which, the petitioner was unaware about the said notice. Hence, the reasons provided by the petitioner for being unaware of the notice, which was uploaded in the web portal, are appears to be genuine.

6. Further, this Court is of the view that no order can be passed without providing sufficient opportunities to the petitioner. However, in the present case, no reply was filed by the petitioner and no opportunity of personal hearing was provided to the petitioner. Hence, the impugned order is liable to be set aside.

7. Accordingly, the impugned order dated 12.12.2023 is set aside and remanded the matter back to the respondent on condition that the petitioner shall deposit 10% of the disputed tax demand of the assessment year, within a period of four (4) weeks from the date of receipt of a copy of this order and thereafter, the petitioner is directed to file a reply within a period of two (2) weeks. After receipt of the reply, the authorities concerned shall fix a date for personal hearing by sending a physical notice to the petitioner



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and thereafter, pass orders on merits and in accordance with law.

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8. With the above directions, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, the connected Miscellaneous Petitions are closed.

08.08.2024

Index:Yes/No

Web:Yes/No

Speaking/Non Speaking

Neutral Citation: Yes/No

msv

To

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Deputy State Tax Officer-2
Kundrathur Assessment Circle,
Sriperumbudur: Kancheepuram,
Tamil Nadu – 600 123.

2.Deputy Commissioner (ST),
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KRISHNAN RAMASAMY, J.

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