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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **12.08.2024**

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THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P.No.22562 of 2024
and W.M.P Nos. 24583 and 24584 of 2024

Sri Venkateswara Oxygen Private Limited
(Represented by its Managing Director,
D.Nityanandan)
SF No.485, Door No.63,
Vadkkuthottam, Idigari Village
Annur Taluk, Coimbatore 641 022 ... Petitioner

Vs.

The Assistant Commissioner (ST)
Periyanaickenpalaym Circle
Coimbatore 641 018 ... 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 on the file of the respondent in GSTIN: 33AAECS1350E1ZW/2017-18, dated 22.12.2023, in DRC-07 proceedings and quash the same.

For Petitioner : Mr.U.Sriram

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

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ORDER

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The present Writ Petition is filed for the issuance of a Writ of Certiorari, to call for the records on the file of the respondent in GSTIN: 33AAECS1350E1ZW/2017-18, dated 22.12.2023, in DRC-07 proceedings and quash the same.

2. The learned counsel for the petitioner submits that since the respondent sent all the correspondences only through portal and that too in "view additional notices / order", the petitioner was not able to defend the case. Even the personal hearing notice was also issued in the same portal, the petitioner has not appearing for the same.

3. He further submits that respondent confirmed the liability invoking Section 74(9) of the Act and demanded the tax and penalty. The respondent, without providing an opportunity to the petitioner, passed the impugned order, which is clear violation of principles of natural justice. He also submits that the petitioner is willing to deposit 10% of the disputed tax amount and hence, the order passed by the respondent may be set aside and remanded the matter back to the respondent for reconsideration. Hence, he prayed to set aside the impugned order.

4. The learned Additional Government Pleader for the Respondent would submit that the impugned show cause notice and the impugned personal hearing notice were issued through the GST Portal and hence, the Petitioner

cannot complain of the breach of principles of natural justice. He would also submit that the appeal remedy is available to the petitioner.

5. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent and perused the materials placed before this Court.

6. In the present case, it appears that the impugned order dated 22.12.2023 issued by the respondent was uploaded in the website and no physical copy served on 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 not physically served to him, are appears to be genuine.

7. 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.

8. Accordingly, the impugned order dated 22.12.2023 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 impugned assessment year, within a period of four (4) weeks from the date of receipt of a copy of this order

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

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

12.08.2024

msv

To

The Assistant Commissioner (ST)
Periyanaickenpalaym Circle
Coimbatore 641 018

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KRISHNAN RAMASAMY, J.

msv

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