IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2024

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P. No.22809 of 2024
AND
W.M.P. Nos.24841 & 24843 of 2024

Nandha and Kiran Traders
Rep. by its Proprietor A.Theivendran
No.9/4, Perur Chettipalayam Road
Babu Gounder Thottam
Perur, Coimbatore 641 010 .. Petitioner

Vs

The Deputy State Tax Officer
Perur Circle, Coimbatore ..Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari to call for the records of the impugned order passed by the respondent bearing ref.No.ZD3301240122719 dated 03.01.2024 and quash the same as arbitrary, illegal and without jurisdiction.

For Petitioner	Mr.C.Santhosh Kumar
For respondent	Mrs.K.Vasanthamala Government Advocate (Taxes)

ORDER

Challenge in this writ petition is made to the assessment order dated 03.01.2024 passed by the respondent.

2. The learned counsel appearing for the petitioner submitted that the petitioner is in the business of manufacturing chips and has been paying taxes under the Composition Scheme periodically. While so, the petitioner was informed by his auditor that the respondent has initiated proceedings under Section 74 of the TNGST Act, pursuant to an inspection which was conducted on 20.04.2022. Further, a summon was issued to the petitioner for his appearance before the respondent on 15.07.2022, followed by three reminders. Since the same were not served on the petitioner as required under Section 169 of the TNGST Act, he did not appear. Thereafter, the respondent passed the order dated 03.01.2024, directing the petitioner to make payment, is in violation of principles of natural justice. Though the summons and the order dated 03.01.2024, were uploaded by the respondent in the GST web portal under the head "view additional notices & orders", the petitioner skipped to view the same. The learned counsel further submitted that the petitioner is willing to deposit 10% of the disputed tax demand. Hence, the order passed by the respondent may be set aside.

3. The learned Government Advocate appearing for the respondent submitted that that the summons and the order dated 03.01.2024 passed by the respondent were uploaded in the GST web portal and therefore, the fault is only on the part of the petitioner.

4. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondent and perused the materials placed before this Court.

5. Considering the submission made by the learned counsel for the petitioner that the summons and the order were not served on the petitioner physically, this Court is inclined to set aside the order dated 03.01.2024 passed by the respondent and accordingly, the same is set aside and the matter is remanded for reconsideration by the respondent, subject to the following conditions :

i. 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.

ii. Thereafter, the petitioner shall file a reply, within a period of two (2) weeks. After receipt of the reply, the respondent 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.

With the above directions, this writ petition is disposed of. No costs. Connected W.M.P.s are closed.

14.08.2024

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Index : Yes/No
Neutral Citation : Yes/No

KRISHNAN RAMASAMY, J.

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To
The Deputy Commercial Tax Officer
Vepery North III – Chennai
Office of the Deputy Commercial Tax Officer
Vepery North III, Chennai North

W.P.No.22809 of 2024

14.08.2024