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W.P.No.23092 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.08.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.23092 of 2024

and

W.M.P.Nos.25205 & 25206 of 2024

Tvl.Balaji Granite Industries,
Represented by its Partner
Mr.Anand Prakash Tiwari,
No.453/1A, Jittobanapalli Village,
Jagadevipalayam, Krishnagiri,
Tamil Nadu 635 203.

...Petitioner

Vs.

The Assistant Commissioner (ST),
Krishnagiri-II Circle,
Hosur Division,
Tamil Nadu.

... Respondent

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records relating to the impugned order dated 27.07.2023 in FORM GST DRC-07 bearing GST.No.33AAKFB8610P1Z5/2017-18 issued by the Respondent along with consequential Demand Order dated 31.07.2023 having Reference No.ZD3307231387178 and quash the same.



W.P.No.23092 of 2024

For Petitioner : Mr.Sanskar Samdaria
For Respondent : Mr.V.Prashanath Kiran,
Government Advocate (T)

ORDER

Challenging the order dated 27.07.2023 passed by the respondent, the petitioner has filed the present Writ Petition.

2. Mr.V.Prashanath Kiran, learned Government Advocate (Tax) takes notice on behalf of the respondent.

3. By consent of the parties, the main Writ Petition is taken up for disposal at the admission stage itself.

4. Alleging that there is mismatch of tax liability between GSTR-3B and GSTR-2A filed by the petitioner for the financial year 2017-2018, the respondent passed an impugned order dated 27.07.2023, demanding the payment of differential amount in respect of the impugned assessment period.

5. The learned counsel for the petitioner submitted that the Show



W.P.No.23092 of 2024

Cause Notice dated 06.06.2023 in Form DRC-01 raised on the petitioner in the GST common portal under “View Notice and Orders” and “View Additional Notices and Orders”, tabs as the petitioner was unaware of the same, he failed to respond the said Show Cause Notice. Further, he submitted that even an impugned order was uploaded in the GST portal and the physical version of such order was not served on the petitioner. It is also submitted that, if an opportunity is provided, the petitioner would be able to substantiate his case and also he agrees to make a payment of 10% of the disputed tax demand in respect of the impugned assessment period.

6. Mr.V.Prashanath Kiran, learned Government Advocate appearing for the respondent would submit that subject to the deposit of 10% of the disputed tax by the petitioner in respect of the impugned assessment period, this Court can consider and pass appropriate orders.

7. Heard the learned counsel for the petitioner as well as the learned Government Advocate for the respondent and perused the materials available on record.



W.P.No.23092 of 2024

8. Considering the above submissions made by the learned counsel on either side and upon perusal of the materials, it is evident that the impugned show cause notice was uploaded on the GST Portal Tab. According to the petitioner, the petitioner was not aware of the issuance of the show cause notice issued through the GST Portal and the original of the said show cause notice was not furnished to them. In such circumstances, this Court is of the view that the impugned order came to be passed without affording an opportunity of personal hearing to the petitioner to establish its case, thereby violating the principles of natural justice and that it is just and necessary to provide an opportunity to the petitioner to establish their case on merits and in accordance with law.

9. For the reasons stated above, this Court is inclined to set aside the impugned order dated 27.07.2023 passed by the respondent, with the following directions:-

- (i) The order impugned herein is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay a 10% of the disputed tax to the respondent within a period of four weeks from the date of receipt of a copy of this order; and the setting aside of



WEB COPY



W.P.No.23092 of 2024

the impugned order will take effect from the date of payment of the said amount.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks thereafter.

(iii) On filing of such reply/objection by the petitioner, the respondent shall consider the same and pass appropriate orders on merits and in accordance with law, after providing an opportunity of personal hearing to the petitioner, as expeditiously as possible.

10. With the above directions, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

14.08.2024

Speaking/Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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WEB COPY



W.P.No.23092 of 2024

Krishnan Ramasamy,J.,
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To

The Assistant Commissioner (ST),
Krishnagiri-II Circle,
Hosur Division,
Tamil Nadu.

W.P.No.23092 of 2024

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