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W.P.No.23784 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.23784 of 2024

and

W.M.P.Nos.26025 & 26026 of 2024

Shri Vinayaga Moorthy,
No.30, Anna Nedunsalai,
Kandanchavady,
Chennai 600 096.

... Petitioner

Vs.

The Deputy State Tax officer (ST),
Thiruvannmiyur Assessment Circle,
Integrated Registration and Commercial Taxes Building,
Nandanam, Chennai 600 035

... Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records in and connected with Assessment Order in AY 2017-18 GSTIN/33APOPV0501J1ZV/2017-18 dated 28.12.2023 on the file of the respondent and quash the same.



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For Petitioner : Mr.M.Harri Viswanaath

For Respondent : Mr.V.Prashanth Kiran,
Government Advocate

ORDER

This writ petition has been filed challenging the impugned order dated 28.12.2023 passed by the respondent.

2. Mr.V.Prashanth Kiran, learned Government Advocate takes notice on behalf of the respondent. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that in the present case, without any proper justification, the show cause notice dated 20.09.2023 was issued by the respondent and the ex-parte impugned order came to be passed by the respondent on 28.12.2023. Further, he would submit that the said impugned order was passed without providing any opportunity of personal hearing to the petitioner. Hence, this petition has been filed.



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4. On the other hand, the learned Government Advocate appearing for the respondent would submit that though the respondent had issued show cause notice, the petitioner failed to avail the said opportunity. Further, he has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, he requested this Court to remit the matter back to the respondent, subject to the payment of 10% of the disputed amount by the petitioner.

5. Heard the learned counsel for the petitioner and the learned Standing counsel for the respondent and also perused the materials available on record.

6. In the present case, it appears that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Hence, this Court is of the view that the impugned order was passed in violation of principles of natural justice and it is just and necessary to provide an opportunity to the petitioner to establish their



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case on merits. In such view of the matter, this Court is inclined to set aside the impugned order dated 28.12.2023 passed by the respondent.

Accordingly, this Court passes the following order:-

(i) The impugned order dated 28.12.2023 is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay 10% of disputed amount to the respondent within a period of four weeks from today (20.08.2024) and the setting aside of 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 issue a 14 days clear notice, by fixing the date of personal hearing, to the petitioner and thereafter, pass appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.



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7. With the above directions, this writ petition is disposed of. No

costs. Consequently, the connected miscellaneous petitions are also closed.

20.08.2024

Speaking/Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

nsa

To

The Deputy State Tax officer (ST),
Thiruvannamiyur Assessment Circle,
Integrated Registration and Commercial Taxes Building,
Nandanam, Chennai 600 035



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KRISHNAN RAMASAMY.J.,

nsa

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