



W.P.No.24048 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.24048 of 2024
and
W.M.P.Nos.26313 & 26315 of 2024

M/s.Evershine Services,
Rep by its Partner Mr.Ahamed Basheer,
No.2/2, First Floor, Selvanathan Street,
Chetpet, Chennai 600 031.

... Petitioner

Vs.

1.The Deputy Commercial Tax Officer,
Egmore Assessment Circle,
No.88, Mayor Ramanathan Salai,
Spurtank Road, Chetpet,
Chennai 600 031.

2.The Assistant Commissioner (ST),
Egmore Assessment Circle,
No.88, Mayor Ramanathan Salai,
Spurtank Road, Chetpet,
Chennai 600 031.

... Respondents



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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 the order passed by the 1st respondent in Summary of Order in DRC-07 in Ref.No.ZD330123003399S dated 02.01.2023 and to quash the order as arbitrary and illegal.

For Petitioner : Mr.Joseph Prabakar

For Respondent : Ms.Amirta Poonkodi Dinakaran,
Government Advocate

ORDER

This writ petition has been filed challenging the impugned order dated 02.01.2023 passed by the 1st respondent.

2. Ms.Amirta Poonkodi Dinakaran, learned Government Advocate, takes notice on behalf of the respondents. 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 all



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notices/communications were uploaded by the respondent in the GST portal. Since the petitioner was not aware of the said notices, they failed to file their reply within the time. Under these circumstances, the impugned order came to be passed by the 1st respondent without providing any opportunity of personal hearing to the petitioner. Hence, this petition has been filed.

4. On the other hand, the learned Government Advocate appearing for the respondents would submit that the respondent has uploaded the notices in the GST Online Portal. But the petitioner failed to avail the said opportunity. Further, she has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, she requested this Court to remit the matter back to the respondent, subject to the payment of 10% of the disputed amount by the petitioner.



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5. Heard the learned counsel for the petitioner and the learned Government Advocate 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 case on merits. In such view of the matter, this Court is inclined to set aside the impugned order dated 02.01.2023 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 02.01.2023 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 (22.08.2024) and the setting aside of the impugned order will take effect from the date of payment of the said amount.



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(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.

7. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

22.08.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
nsa



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To

WEB COPY

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KRISHNAN RAMASAMY.J.,

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