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W.P.No.23943 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.23943 of 2024 &
W.M.P.Nos.29196 to 29198 of 2024

M/s.Prestige Marketing,
Represented by its Managing Partner,
Mr.Safeer Abubacker,
No.18, M.K.Tower,
Mint Street, Sowcarpet,
Chennai - 600 079.

... Petitioner

Vs.

1.The State Tax Officer,
Vallalar Nagar Assessment Circle,
No.1275/3, Integrated Commercial Taxes Building,
Second Floor, Room No.222,
Elephant Gate Bridge Road,
Vepary, Chennai - 600 003.

2.The Branch Manager,
Canara Bank,
P.B.No.2019, 131, A.N.Street,
George Town, Chennai - 600 079.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the impugned proceedings of the first respondent in GSTIN:33AAOFP7312E1ZD/2017-2018, dated 30.12.2023 and the connected order under Section 73 of the Summary of the Order in Form GST DRC-07, dated 30.12.2023 both issued in Reference



W.P.No.23943 of 2024

No.ZD331223272213W and quash the impugned orders as passed in violation of the principles of natural justice and contrary to the provisions of the CGST Act, 2017 and TNGST Act, 2017.

For Petitioner : Mr.P.Rajkumar

For Respondents : Ms.Amirta Poonkodi Dinakaran
Government Advocate (Taxes) for R1

ORDER

This writ petition has been filed to quash the order dated 30.12.2023 for the assessment year 2017-2018, along with the connected order issued under Section 73 and the Summary of the Order in Form GST DRC-07, dated 30.12.2023.

2. Ms.Amirta Poonkodi Dinakaran, learned Government Advocate (Taxes) takes notice on behalf of the first respondent.

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

4. The learned counsel for the petitioner submits that all notices/communications were uploaded under the "Additional Notices



W.P.No.23943 of 2024

Column" in the GST portal. However, the petitioner, being a small business concern, was not aware of the notices uploaded on the GST portal, and the accountant of the petitioner also failed to check the same, resulting in their failure to file a reply within the stipulated time. While so, without providing any opportunity to the petitioner, the respondent passed the impugned order, which is in violation of the principles of natural justice. He would further submit that the petitioner did not even reply to the notice at all; however, the respondent issued the order stating that the reply filed by the petitioner was not satisfactory.

5. On the other hand, the learned Government Advocate (Taxes) would submit that the respondent uploaded the notice for personal hearing in the GST Online Portal. But the petitioner failed to avail the said opportunity. He would further submit that now, the petitioner can very well approach the Appellate Authority. Hence, she prayed for appropriate orders.

6. In reply, the learned counsel for the petitioner would fairly submit that the petitioner is now ready and willing to pay 10% of the demand made by the respondent in the event of providing an opportunity to them to file their reply/objections along with the required documents to substantiate their



W.P.No.23943 of 2024

claim, for which, the learned Government Advocate (Taxes) has no serious objection.

7. Having regard to the admitted fact that the impugned orders came to be passed without hearing the petitioner in violation of the principles of natural justice, and also considering the submissions made by the learned counsel on either side, this court passes the following order:-

(i) The orders impugned herein are set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay a 10% of demand 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 the impugned order will take effect from the date of payment of the said amount.

(ii) On such payment, the respondent is directed to lift the attachment on the bank accounts of the petitioner with immediate effect.

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

(iv) On filing of such reply/objection by the petitioner, the respondent shall consider the same after issuing a 14 days clear notice by fixing the date of personal hearing and thereafter pass appropriate orders



W.P.No.23943 of 2024

on merits and in accordance with law, as expeditiously as possible.

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8. Accordingly, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

20.08.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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W.P.No.23943 of 2024

To

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KRISHNAN RAMASAMY.J.,
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