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W.P.No.24020 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.24020 of 2024 &
W.M.P.Nos.26278, 26279 and 26283 of 2024

Tvl.Sri Srinivasa Silk House,
(Represented by its Proprietor Mr.Ramesh),
Shop No.21, Kalaignar Textiles Market,
CB Road, Krishnagiri - 635 104.

... Petitioner

Vs.

The Assistant Commissioner (ST),
Krishnagiri-2, Assessment Circle,
Krishnagiri.

... 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 on the files of the respondent herein in FORM GST DRC-07 with Reference No.ZD331223085302U, dated 11.12.2023 and 13.12.2023 along with the detailed proceedings in GSTIN: 33ANSPR8417M1Z6/2020-21, dated 11.12.2023, 13.12.2023 for the tax period 2020-2021 and quash the same.

For Petitioner : Mr.N.Chandirasekar

For Respondent : Mrs.K.Vasanthamala
Government Advocate (Taxes)



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ORDER

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This writ petition has been filed to quash the order in Form GST DRC-07 with Reference No.ZD331223085302U, dated 11.12.2023 and 13.12.2023, along with the detailed proceedings under GSTIN: 33ANSPR8417M1Z6/2020-21, dated 11.12.2023 and 13.12.2023, for the tax period 2020-2021.

2. Mrs.K.Vasanthala Mala, learned Government Advocate (Taxes) 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. The learned counsel for the petitioner submits that all notices/communications were uploaded under the "Additional Notices 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 orders, which are in violation of the principles of natural justice.



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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 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



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weeks from the date of receipt of a copy of this order and the setting aside of the impugned orders 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 on merits and in accordance with law, as expeditiously as possible.

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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To

The Assistant Commissioner (ST),
Krishnagiri-2, Assessment Circle,
Krishnagiri.



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KRISHNAN RAMASAMY.J.,
r n s

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