



W.P.No.24288 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.08.2024

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.24288 of 2024 &
W.M.P.Nos.26530 and 26531 of 2024

Tvl VGM Associates,
Represented by its Proprietor
Senthamaraikannan Parthasarathy,
No.23, 2nd Road, 2nd Lane, Puliur,
Trustpuram, Kodambakkam,
Chennai- 600024.

... Petitioner

Vs.

The State Tax Officer,
MMDA Colony Assessment Circle,
No.10, II Floor, Palaniappa Maligai,
Greams Road,
Chennai- 600 006.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records of the impugned order of the Respondent in GSTIN/33ANRPP5338G1ZO/2017-2018 dated 22.12.2023 along with and Summary of Order in Reference No.ZD331223174760M dated 22.12.2023 and quash the same and to further entertain the records,



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documents and reply from the Petitioner and then pass order after affording the personal hearing to the Petitioner.

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For Petitioner : Mr.M.Hariharan

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

ORDER

This writ petition has been filed by the petitioner challenging the order of the Respondent dated 22.12.2023 along with and Summary of Order in Reference No.ZD331223174760M dated 22.12.2023 and quash the same and to further entertain the records, documents and reply from the Petitioner and pass order after affording the personal hearing to the Petitioner.

2. Mrs.K.Vasanthamala, 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.



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4. The learned counsel for the petitioner would submit that in the present case, initially, the respondent has issued a show cause notice dated 15.09.2023 to the petitioner, followed by personal hearing notice dated 07.11.2023 and the said notices were uploaded in the heading "***View Additional Notices and Orders***" in the GST portal. Since Petitioner being a small concern and as the proprietor of the Petitioner Firm was undergoing treatment for prolonged illness, they are not aware of the said notices and hence they had failed to file their reply within the time. Under these circumstances, the impugned order dated 22.12.2023 came to be passed by the Respondent demanding tax along with penalty and interest for the Assessment Year 2017-2018, without affording an opportunity of hearing to the Petitioner and therefore the impugned assessment order is passed in violation of the principles of natural justice and therefore he prays to set aside the same.

5. On the other hand, the learned Government Advocate (Taxes) would submit that the respondent uploaded the show cause notice and



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the personal hearing notice in the GST Online Portal. But the petitioner failed to submit reply in time and also failed to appear before the authority to substantiate his case and therefore the impugned assessment order came to be passed.

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 disputed tax liability made by the respondent in the event of providing an opportunity to them to file their reply along with the required documents to substantiate their claim, for which, the learned Government Advocate (Taxes) has no serious objection.

7. Heard the learned counsel for the petitioner and the learned Government Advocate (Taxes) for the respondent and also perused the materials available on record.

8. In the present case, since the show cause notice followed by personal notice was uploaded in the GST Portal, the petitioner being a



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small concern was not aware of the same and that apart the proprietor of the Petitioner was undergoing prolonged medical treatment at that point of time and therefore they were not in a position to file reply for the said show cause notice.

9. Further, 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 is 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 22.12.2023 passed by the Respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 22.12.2023 is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay 10% of disputed tax to the respondents 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) 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.

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

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

The State Tax Officer,
MMDA Colony Assessment Circle,
No.10, II Floor, Palaniappa Maligai,
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KRISHNAN RAMASAMY.J.,

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