IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **18.11.2024**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.26168 of 2022
and
W.M.P.Nos.25263 & 25265 of 2022

M/s.Estell Homes
Represented by its Senior Vice President
No.1, Roya Enclave,
5th Floor, Besant Avenue Road,
Adyar, Chennai – 600 020

....Petitioner

Vs

The Assistant Commissioner (ST)
Adyar Assessment Circle,
No.244, Second Floor,
Integrated Commercial Taxes and Registration Building,
South Tower, Nandanam,
Chennai – 600 035

....Respondent

PRAYER: Writ Petition is filed under Article 226 of Constitution of India, pleased to issue a Writ of Certiorari calling for the records of the Respondent in the impugned order TIN/33770964527/2013-14 dated 23.03.2022 passed the Respondent and quash the same and a direction to refund the amount taken from the bank.

For Petitioner : Mrs.Radhika Chaandra Sekhar

For Respondent : Mr.TNC Kaushik
Additional Government Pleader

ORDER

This Writ Petition has been filed challenging the impugned order dated 23.03.2022 passed for the assessment year 2013-2014 under TNVAT, 2006. The impugned order precedes to a notice dated 16.02.2022 fixing the date of personal hearing.

2.It appears that, petitioner has not received the same. Therefore, he failed to respond to the notice calling upon the petitioner to appear for personal hearing.

3. The learned counsel for the petitioner submits that the entire tax amount which has been confined in the impugned order has also been recovered from the petitioner by the department. He further submitted that the petitioner may be given one opportunity to explain the case as the petitioner as was unaware of the same and came to know about the passing of the impugned order only after the recovery notice was issued.

4. The learned counsel for the respondent is unable to confirm whether the amount has been recovered from the petitioner or not.

5. Be that as it may, ture is a palpable violation of principles of natural justices as the petitioner was not heard before the impugned order was passed. Therefore, this Court is inclined to quash the impugned order and remits the case back to the respondent to pass a fresh order subject to the petitioner depositing 25% disputed tax, if the tax amount has not been already recovered from the petitioner. Since the dispute pertains to the year 2013, 2014, the respondent shall pass fresh order on merits preferably within a period of three months from the date of receipt of copy of the order. The petitioner shall file a reply within a period of thirty days from the date of receipt of copy of the order. It is made clear if no recovery has already made and /or if the petitioner fails to deposit 25% as ordered, the petitioner shall be entitled to proceed as if this Writ petition was dismissed.

6. With the above observations and directions, the Writ Petition is disposed of. Consequently, connected miscellaneous petitions are closed. No costs.

18.11.2024

Index :Yes/No
Neutral Citation : Yes
Speaking order : Yes
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C.SARAVANAN, J
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To
The Assistant Commissioner (ST)
Adyar Assessment Circle,
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