



WEB COPY



W.P.No.24491 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.08.2024

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.24491 of 2024
and
W.M.P.Nos.26803 & 26804 of 2024

Seshammaljain Sanjay Kumar

... Petitioner

Vs.

Assistant Commissioner (ST),
RG Street Circle, Coimbatore I,
Coimbatore, Tamil Nadu.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the respondent and quash the impugned order under Section 73 of the TNGST Act, 2017/CGST Act, 2017 in GSTIN 33CECPS1011P1ZK dated 28.03.2024 along with its annexure and the consequent summary of the order in Form GST DRC-07 dated 28.03.2024 both passed by the respondent and both having Ref.No.ZD330324197534B for FY 2019-20.



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For Petitioner : Ms.N.V.Lakshmi

For Respondent : Mr.V.Prashanth Kiran,
Government Advocate

ORDER

This writ petition has been filed challenging the impugned order dated 28.032024 passed by the respondent.

2. Mr.V.Prashanth Kiran, 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 no notices/communications were served physically to the petitioner, due to which the petitioner was not aware of the said notices and hence, they failed to file their reply within the time. Under these circumstances, the impugned order came to be passed by the respondent without providing any opportunity of personal hearing to the petitioner. Hence, this petition has been filed.



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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, he has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, he requested this Court to remit the matter back to the respondent, subject to the payment of 10% of the disputed amount by the petitioner.

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



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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 28.03.2024 passed by the respondent.

Accordingly, this Court passes the following order:-

(i) The impugned order dated 28.03.2024 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.

(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.



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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

To

Assistant Commissioner (ST),
RG Street Circle, Coimbatore I,
Coimbatore, Tamil Nadu.



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KRISHNAN RAMASAMY.J.,

nsa

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