IN THE HIGH COURT OF JUDICATURE AT MADRAS

**Dated : 04.09.2024**

Coram

**The Hon'ble Mr.Justice Krishnan Ramasamy**

**W.P.No.25170 of 2024**
**and**
**W.M.P.Nos.27488 & 27490 of 2024**

Tvl. Velan Enterprises,
Represented by its Partner, Mr.J.Boopal,
18, Shoba Nagar, Avarampalayam,
Coimbatore, Tamil Nadu 641 006. ...Petitioner

Vs.

The Deputy State Tax Officer (ST),
Avarampalayam Assessment Circle,
Coimbatore, Tamil Nadu 641 006. ... Respondent

**Prayer:** This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the respondent's order dated 19.12.2023 in Reference No:ZD331223135697E2017-18 and quash the same.

For Petitioner : Ms.N.Janani
For Respondent : Mr.G.Nanmaran
Special Government Pleader (Tax)

**ORDER**

This Writ Petition has been filed by the petitioner challenging the impugned order dated 19.12.2023 passed by the respondent for the Assessment Year 2017-2018.

2. Mr.G.Nanmaran, learned Special Government Pleader (Tax) 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. Alleging that there are discrepancies in the returns filed by the petitioner for the financial year 2017-2018, the respondent passed an impugned assessment order dated 19.12.2023, demanding the payment of Rs.4,32,170/- along with penalty in respect of the impugned assessment period.

5. The learned counsel for the petitioner submitted that notice in Form DRC-01A and Show Cause Notice in Form DRC-01 raised on the petitioner on 20.09.2023 and 27.09.2023 respectively in the GST common

portal. The respondent had also issued reminders for responding to the said notices. However, the said notice and Show Cause Notice were uploaded in the GST common portal under the head “View Additional Notices/Orders” Tab, as the petitioner was unaware of the same, he failed to respond the said notice and Show Cause Notice. Further, he would submit that even an impugned assessment order was uploaded in the GST portal under “Additional Notices & Orders” Tab and the physical version of such order was not served on the petitioner. Hence, the learned counsel submitted that the Show Cause Notice as well as impugned assessment order dated 19.12.2023 are passed in violation of the principles of natural justice. He further submits that, if an opportunity is provided, the petitioner would be able to substantiate his case and also he agrees to make a payment of 10% of the disputed tax demand in respect of the impugned assessment period.

6. Mr.G.Nanmaran, learned Special Government Pleader appearing for the respondent would submit that subject to the deposit of 10% of the disputed tax by the petitioner in respect of the impugned assessment period, this Court can remand the matter to the Authority concerned for passing appropriate orders.

7. Heard the learned counsel for the petitioner as well as the learned Special Government Pleader for the respondent and perused the materials available on record.

8. Considering the above submissions made by the learned counsel on either side and upon perusal of the materials, it is evident that the impugned show cause notice was uploaded on the GST Portal Tab. According to the petitioner, the petitioner was not aware of the issuance of the show cause notice issued through the GST Portal and the original of the said show cause notice was not furnished to them. In such circumstances, this Court is of the view that the impugned assessment order came to be passed without affording any opportunity of personal hearing to the petitioner to establish its case, thereby violating the principles of natural justice and that it is just and necessary to provide an opportunity to the petitioner to establish their case on merits and in accordance with law.

9. For the reasons stated above, this Court is inclined to set aside the impugned assessment order dated 19.12.2023 passed by the respondent.

Accordingly, this Court passes the following orders:-

(i) The order impugned herein is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay a 10% of the disputed tax 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) 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 pass appropriate orders on merits and in accordance with law, after providing an opportunity of personal hearing to the petitioner, as expeditiously as possible.

10. With the above directions, this Writ Petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

**04.09.2024**

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

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**<u>Krishnan Ramasamy,J.,</u>**

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To

The Deputy State Tax Officer (ST),
Avarampalayam Assessment Circle,
Coimbatore, Tamil Nadu 641 006.

**<u>W.P.No.25170 of 2024</u>**

**04.09.2024**