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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.09.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.25434 of 2024
& W.M.P.No.27801 of 2024

M/s.Sri Amman Agencies,
Rep by its Proprietor, Dineshkumar Chandrasekaran,
GSTIN: 33BHTPD4620C1ZR
Shop No.137 & 138,
Sri Mahalakshmi Textile Market,
Bargur, Krishnagiri 635 104.

... Petitioner

Vs.

1.Deputy State Tax Officer,
Krishnagiri II,
Hosur, Krishnagiri.

2.The Deputy Commissioner of Commercial Taxes Appeal,
Salem Commissionerate,
No.1, Foulkes Compound, Anai Medu Road,
Salem, Tamil Nadu 636 001.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the

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records of impugned order dated 04.11.2023 in case proceeding Ref.No.ZD330823126585B passed by 1st respondent and quash the sme as illegal and consequentially remand back to the 1st respondent for fresh consideration on merits after hearing the petitioner.

For Petitioner : Mr.V.Kaushik Narayanan

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

ORDER

This writ petition has been filed challenging the impugned order dated 04.11.2023 passed by the 1st 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 all notices/communications were uploaded by the respondent in the GST

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portal. Since the petitioner was not aware of the said notices, 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.

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.

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5. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents 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 since 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 04.11.2023 passed by the 1st respondent. Accordingly, this Court passes the following order:-

> (i) The impugned order dated 04.11.2023 is set aside and the matter is remanded to the 1st respondent for fresh consideration on condition that the petitioner shall pay 10% of disputed tax amount to the respondent within a period of four weeks from today (05.09.2024) and the setting aside of the impugned order will take effect from the date of payment of the said amount.

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(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of three weeks from the date of receipt of copy of this order.

(iii) On filing of such reply/objection by the petitioner, the 1st 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.

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

05.09.2024

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

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KRISHNAN RAMASAMY.J.,
nsa

To

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Krishnagiri II,
Hosur, Krishnagiri.

2.The Deputy Commissioner of Commercial Taxes Appeal,
Salem Commissionerate,
No.1, Foulkes Compound, Anai Medu Road,
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