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W.P.No.26984 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.09.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.26984 of 2024 &
W.M.P.Nos.29492, 29493 & 29497 2024

M/s.Sri Shivasakthi Mercantile Private Limited,
Represented by its Director,
Mr.Vinod Kothari,
No.662/2, T.H.Road, Tondiarpet,
Chennai - 600 081. ... Petitioner

Vs.

- 1.The Assistant Commissioner (State Tax),
Tondiarpet Assessment Circle,
No.32, Elephant Gate Bridge Road,
Chennai - 600 003.
- 2.The Branch Manager,
Axis Bank,
549, Thiruvottiyur High Road,
Korukkupet, Old Washermenpet,
Chennai - 600 021. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the impugned proceedings of the first respondent passed in GSTIN:33ABCCS1225K1ZL/2021-2022, dated 26.03.2024 and the connected order under Section 74, dated 26.03.2024 and summary of the order in Form GST DRC-07, dated 26.03.2024 both issued in Reference No.ZD330324175368A and quash the impugned proceedings as passed contrary to the provisions of the Tamil Nadu Goods and Services Tax



W.P.No.26984 of 2024

Act, 2017, and also against the principles of natural justice.

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For Petitioner : Mr.P.Rajkumar

For Respondents : Mr.T.N.C.Kaushik
Additional Government Pleader for R1

ORDER

This writ petition has been filed to quash the order of the first respondent dated 26.03.2024, along with the connected order passed under Section 74 dated 26.03.2024, and the summary of the order in Form GST DRC-07 dated 26.03.2024.

2. The learned counsel for the petitioner submits that all notices/communications were uploaded in the GST portal. However, the petitioner, being a small business concern, was not aware of the notices uploaded on the GST portal, resulting in their failure to file a reply within the stipulated time. While so, without providing any opportunity to the petitioner, the respondent passed the impugned orders, which is in violation of the principles of natural justice.

3. On the other hand, the learned Additional Government Pleader (Taxes) would submit that the respondent uploaded the notice for personal



W.P.No.26984 of 2024

hearing in the GST Online Portal. But the petitioner failed to avail the said opportunity.

4. 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 in the event of providing an opportunity to them to file their reply/objections along with the required documents to substantiate their claim, for which, the learned Additional Government Pleader (Taxes) has no serious objection.

5. Having regard to the admitted fact that the impugned orders came to be passed without hearing the petitioner in violation of the principles of natural justice, and also considering the submissions made by the learned counsel on either side, this court passes the following order:-

(i) The orders impugned herein are set aside and the matter is remanded to the first respondent for fresh consideration on condition that the petitioner shall pay a 10% of the disputed tax to the first respondent within a period of eight weeks from the date of receipt of a copy of this order and the setting aside of the impugned orders will take effect from the date of payment of the said amount.



W.P.No.26984 of 2024

(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 after issuing a 14 days clear notice by fixing the date of personal hearing and thereafter pass appropriate orders on merits and in accordance with law, as expeditiously as possible.

6. Accordingly, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

13.09.2024
(3/5)

Speaking/Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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W.P.No.26984 of 2024

To

- 1.The Assistant Commissioner (State Tax),
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W.P.No.26984 of 2024

KRISHNAN RAMASAMY.J.,
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