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W.P.No.27348 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.09.2024

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.27348 of 2024 &
W.M.P.Nos.29836 and 29837 of 2024

Mr.Nandkumar Desai Kapil
(Kapil N Desai)
Proprietor of M/s.Nandco Automobiles,
No.114, Ground Floor, Amman Koil Street,
Kondithope, Chennai, 600079. ... Petitioner

Vs.

The Deputy State Tax Officer
Mooremarket Assessment Circle
Survey No.225, Integrated Commercial Taxes Office
Building,
Chennai-North Division, No.32, Elephant Gate Bridge
Road, Chennai- 600003. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records of the Respondent in Order dated 28/03/2024 in GSTN 33AQGPK3418C1ZD/2019-20 (2018-19) and quash the same as illegal, arbitrary and in violation of principles of natural justice.



W.P.No.27348 of 2024

For Petitioner : Ms.C.Rekhakumari

For Respondent : Mr.G.Nanmaran
Special Government Pleader (Taxes)

ORDER

This writ petition has been filed by the petitioner challenging the order of the Respondent dated 28.03.2024 and to quash the same.

2. Mr.G.Nanmaran, learned Special Government Pleader (Taxes) 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. The learned counsel for the petitioner would submit that in the present case, the respondent has issued a show cause notice, along with summary notice dated 30.01.2024 to the petitioner and the only the summary notice was uploaded in the "view additional notice and orders" column in the GST portal. Since the Petitioner's accountant had not noticed the same, the Petitioner was not aware of the said notice and



W.P.No.27348 of 2024

therefore they had failed to file their reply. Under these circumstances, the impugned order dated 28.03.2024 came to be passed by the Respondent demanding tax along with penalty and interest for the Assessment Year 2018-2019, without affording an opportunity of hearing to the Petitioner and therefore the impugned assessment order is passed in violation of the principles of natural justice.

5. On the other hand, the learned Special Government Pleader (Taxes) would submit that the respondent uploaded the show cause notice as well as the personal hearing notice in the GST Online Portal. But the petitioner failed to submit reply and therefore the impugned assessment order came to be passed.

6. 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 liability made by the respondent in the event of providing an opportunity to them to file their reply along with the required documents



W.P.No.27348 of 2024

to substantiate their claim, for which, the learned Special Government Pleader (Taxes) has no serious objection.

7. Heard the learned counsel for the petitioner and the learned Special Government Pleader (Taxes) for the respondent and also perused the materials available on record.

8. In the present case, since the show cause notice followed by personal hearing notice was uploaded in the GST Portal, the petitioner was not aware of the same and therefore they were not in a position to file reply for the show cause notice.

9. Further, 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 is passed in violation of principles of natural justice and 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



W.P.No.27348 of 2024

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 tax to the respondents 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 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.



W.P.No.27348 of 2024

WEB COPY

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

23.09.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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W.P.No.27348 of 2024

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To

The Deputy State Tax Officer
Mooremarket Assessment Circle
Survey No.225, Integrated Commercial Taxes Office
Building,
Chennai-North Division, No.32, Elephant Gate Bridge
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W.P.No.27348 of 2024

KRISHNAN RAMASAMY.J.,

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