IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.09.2024

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.Nos.27744, 27746 & 27747 of 2024
& W.M.P.Nos.30249, 30250 & 30255 of 2024

M/s.Winstar Marketing India Private Limited,
Represented by its Director, Mr.Ramnath,
112, Chokkanathar Street,
Karthikeyan Nagar, Maduravoyal,
Chennai 600 095.

... Petitioner in all petitions

Vs.

1.The State Tax Officer,
Vanagaram Circle,
No.4/109, Chennai Bangalore Highway,
Varadharajapuram,
Poonamallee, Chennai 600 123.

2.The Deputy Commissioner (ST),
Poonamallee Zone,
No.4/109, Chennai Bangalore Highway,
Varadharajapuram,
Poonamallee, Chennai 600 123.

... Respondents in all petitions

Prayer in W.P.No.27744 of 2024:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records pertaining to the impugned order dated 12.04.2024 having Ref.No.ZD330424089262H issued by the 1st respondent and quash the same.

Prayer in W.P.No.27746 of 2024:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records pertaining to the impugned recovery notice dated 12.07.2024 issued in GST/33AABCW6391E1ZC by the 2nd respondent.

Prayer in W.P.No.27747 of 2024:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the 1st respondent to consider and dispose of the application dated 21.08.2024 filed under Section 161 of the TNGST Act, 2017.

For Petitioner in all petitions	:	Mr.Hari Radhakrishnan
For Respondent in all petitions	:	Mr.V.Prashanth Kiran, Government Advocate

COMMON ORDER

These writ petitions have been filed challenging the impugned order dated 12.04.2024 and impugned recovery notice dated 12.07.2024 issued by the respondent and further, to direct the 1st respondent to consider and dispose of the application dated 21.08.2024 filed by the petitioner.

2. Mr.V.Prashanth Kiran, learned Government Advocate, takes notice on behalf of the respondent. By consent of the parties, the main writ petitions are 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 under the column, viz., "View Additional Notices and Orders", in the GST 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 respondent 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 tax 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 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 12.04.2024 and the impugned recovery notice dated 12.07.2024 issued by the respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 12.04.2024 and the impugned recovery notice dated 12.07.2024 are set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay 10% of disputed tax amount to the respondent within a period of six weeks from today (24.09.2024) 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 three weeks from the date of receipt of copy of this order.

(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.

7. With the above directions, the writ petitions in W.P.Nos.27744 and 27746 of 2024 are disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

8. In view of the above order passed by this Court, the prayer in W.P.No.27747 of 2024 has become infructuous. Therefore, the said writ petition is dismissed as infructuous. No cost.

24.09.2024

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

To

1.The State Tax Officer,

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Varadharajapuram,
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2.The Deputy Commissioner (ST),
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KRISHNAN RAMASAMY.J.,

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