



WEB COPY



WP No.27764 of 2024.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **23.09.2024**

CORAM:

THE HON'BLE MR. JUSTICE KRISHNAN RAMASAMY

WP No.27764 of 2024 &
WMP.Nos.30292 & 30275 of 2024

Tvl. Astona,
GSTIN: 33ABFFA1254L1ZN,
represented by its Partner Arun Raj R,
Vinayagapuram, 119, Sivanantha
Mill Road, Villankurichi,
Coimbatore 641 035.

...

Petitioner

vs.

The Deputy State Tax Officer-1,
Saravanampatti East Circle,
Commercial Tax Building,
Dr.Balasundaram Road,
Coimbatore 641 018.

...

Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records pertaining to the impugned order in Form GST DRC – 07 bearing reference number ZD3311231431516/2017-18, dated 23.11.2023, issued by the respondent and quash the same.

For Petitioner : Mr. G.Derrick Sam

For Respondents : Mr. V. Prashanth Kiran
GA (Taxes)

ORDER



WP No.27764 of 2023.

This writ petition has been filed for issuance of a Writ of Certiorari to call for the records pertaining to the impugned order in Form GST DRC – 07 bearing reference number ZD3311231431516/2017-18, dated 23.11.2023, issued by the respondent and quash the same.

2. The learned counsel for the petitioner submits that the respondent had issued a show cause notice in Form ASMT 10 dated 18.07.2023. Subsequently, by the impugned order dated 23.11.2023, recovery proceedings were initiated demanding tax of Rs.8,568/- and Rs.80,698 on the allegation that there is mismatch between the ITC claimed in GSTR-3B and the ITC auto populated in GSTR-2A. He further submitted that ASMT 10 in Form GST DRC 01A and Show Cause Notice, personal hearing in reminders and impugned order in form GST DRC 07 were available in the GST Portal only under the column “view additional notices and orders”. Hence, the petitioner had no occasion to notice the same and therefore, he is not able to participate in the adjudication proceedings. The petitioner's request for extension of time for response to notice was not considered and he was prevented from participating in the adjudication proceedings.



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3. He further submits that the petitioner was unaware of the show cause notice and the reminder as they were uploaded in the GST portal under the head "View Additional Notices/Orders". However, without considering all these aspects, the respondent has passed the impugned order, which is in violation of principles of natural justice. He further submits that the petitioner is ready to deposit 10% of the disputed tax demand and requests this Court to grant one more opportunity to establish their case before the respondent.

4. The learned Government Advocate (Taxes) appearing for the respondent would submit that in the event of deposit of 10% of the tax demand, the request of the petitioner may be considered.

5. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondent and perused the materials on record.

6. Considering the facts that the respondent without providing sufficient time to file the reply of the petitioner and without affording opportunity of personal hearing, the impugned order was passed, which is



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in violation of principles of natural justice, this Court is inclined to set aside the impugned order dated 23.11.2023 passed by the respondent and accordingly, the same is set aside on condition that the petitioner shall deposit 10% of the tax demand within a period of four (4) weeks from the date of receipt of a copy of this order. While setting aside the impugned order, this Court remits the matter back to the respondent for considering the request of the petitioner. The petitioner is directed to file a reply within a period of two (2) weeks from the date of receipt of a copy of this order and the respondent is directed to afford an opportunity of personal hearing by providing 14 days time and thereafter, proceed with the matter in accordance with law.

8. With the above direction, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, the connected Miscellaneous Petitions are closed.

23.09.2024

Index: Yes/No
Speaking/Non-Speaking Order
Neutral Citation: Yes/No.
msr

To

The Deputy State Tax Officer-1,



WP No.27764 of 2021.

Saravanampatti East Circle,
Commercial Tax Building,
Dr.Balasundaram Road,
Coimbatore 641 018.

KRISHNAN RAMASAMY, J.

msr



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