IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

WP.No.28308 of 2024
and W.M.P.Nos. 30847 and 30849 of 2024

SRICO Projects Private Limited
Represented by J.Shajahan
No.69, Sriram Nagar, Paruthipattur Avadi
Chennai – 600 071. .... Petitioner

Vs.

The Assistant Commissioner (ST)
Avadi Assessment Circle
Integrated Commercial Taxes Building
Chennai North Division,
No.32, Elephant Gate bridge Road, Vepery
Chennai – 600 003 ... Respondent

Prayer:- Writ Petition is filed, under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for the records of the respondent in ASMT – 10 along with Detailed notice-Annexure-II to ASMT-10 notice dated 03.07.2023 and show cause notice in DRC-01order GSTIn 33AAGCS7109F2ZI/2017-18 dated 26.10.2023 as barred by limitation.

For Petitioner : Mr.V.Sundareswaran

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

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O R D E R

This writ petition has been filed challenging the impugned order 26.10.2023 passed by the respondent.

2. Mr.G.Nanmaran, learned Special Government Pleader(T) takes notice on behalf of the respondent. 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 submits that show cause notice dated 03.07.2023 was issued to the petitioner. At the same time, the wife of the petitioner's consultant, who is handling this matter, fell sick and got admitted in the hospital, due to which, he was unable to inform with regard to the said notices to the petitioner. Thereafter, impugned notice dated 26.10.2023 was uploaded in the portal and the consultant was unable to attend the notices nor inform the same to the petitioner. Hence, the petitioner was not able to defend the case and the petitioner's bank account was also freezed. The respondent had issued order reckoning the Income Tax FORM 26As as turnover and passed the order which is

otherwise also barred by limitation. Moreover, the petitioner has paid a sum of Rs.25,00,000/- out of total tax liability to the tune of Rs.51,00,000/- Hence, the order passed by the respondent may be set aside and remanded the matter back to the respondent for reconsideration.

4. On the other hand, the learned Special Government Pleader(T) appearing for the respondent would submit that though the impugned order was served to the petitioner, he had failed to file the reply within the prescribed time limit. However, he would fairly submit that if any order is passed by this Court, the same will be complied with by the respondent.

5. Heard the learned counsel for the petitioner and the learned Special Government Pleader (T) for the respondent and perused the materials placed before this Court.

6. In the case on hand, due to the ill-health of the wife of the petitioner's consultant, the petitioner was unable to file the reply in time. However, the reasons assigned by the petitioner for non-filing of reply within the prescribed time appears to be genuine.

7. Further, this Court is of the view that no order can be passed without providing sufficient opportunities to the petitioner. However, in the present case, no reply was filed by the petitioner and no opportunity of personal hearing was provided to the petitioner. Hence, the impugned order is liable to be set aside.

8. Accordingly, the impugned order dated 26.10.2023 is set aside and remanded the matter back to the respondent on condition that the petitioner shall deposit a sum of Rs.10,000/- to the Principal Government Naturopathy Medical College and Hospital, Account No.7883022723, IFSC Code: IDIB000M157, within a period of 2 weeks from the date of receipt of copy of this order and thereafter, the petitioner is directed to file a reply within a period of two (2) weeks. After receipt of the reply, the authorities concerned shall fix a date for personal hearing by sending a physical notice to the petitioner and thereafter, pass orders on merits and in accordance with law. Considering the fact that the impugned order itself has been set aside, this Court is of the opinion that the attachment made on the bank account of the petitioner cannot survive any longer and hence, it is

lifted. As a sequel, the respondent is directed to instruct the concerned bank to release the attachment and de-freeze the cash credit account of the petitioner, immediately upon the production of a copy of this order.

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

27.09.2024

Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
Neutral Citation: Yes/No
msv

To
The Assistant Commissioner (ST)
Avadi Assessment Circle
Integrated Commercial Taxes Building
Chennai North Division,
No.32, Elephant Gate bridge Road, Vepery
Chennai – 600 003

KRISHNAN RAMASAMY, J.

msv

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