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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

WP.No.28011 of 2024
and W.M.P.Nos. 30570 and 30573 of 2024

M/s.Shree Ganesh Traders,
Represented by its Proprietor,
Sangeetha
No.33/34,
Solaiamman Koil Street,
Purasawalkam,
Chennai - 600007 .... Petitioner

Vs.

The State Tax Officer,
Purasawakkam Assessment Circle,
Anna Nagar East,
Chennai – 102. ... 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 on the file of the respondent and to quash the impugned assessment order dated 14.11.2023 bearing GSTIN/33BDOPS6881B1Z8/2017-18 passed by the respondent as arbitrary.

For Petitioner : Mr.J.Ashish

For Respondent : Mrs.K.Vasanthamala
Government Advocate (Tax)

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ORDER

The present Writ Petition has been filed to call for the records on the file of the respondent and to quash the impugned assessment order dated 14.11.2023 bearing GSTIN/33BDOPS6881B1Z8/2017-18 passed by the respondent.

2. The learned counsel for the petitioner submits that the respondent has filed to issue the detailed show cause notice to the petitioner instead the respondent had issued only the summary of show cause notice. It is more evidence that the reminder notice has observed only the reference number of the summary of show cause notice. Moreover, the impugned order dated 14.11.2023 was uploaded in the portal and that too in "additional notices and orders" tab in the GST portal and the petitioner was not able to defend the case. Even the personal hearing notice and all the communications were also issued in the same portal, the petitioner has not appeared for the same. Hence, the petitioner has not filed a reply. Therefore, the order passed by the respondent is in violation of principles of natural justice. He further submitted that the petitioner is willing to deposit 10% of the disputed tax amount and hence, the order passed by the respondent may be set aside and remanded the matter back to the respondent for reconsideration.

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3. The learned Government Advocate(T) appearing for the Respondent would submit that though the notice was uploaded by the respondent in the web portal, the petitioner had failed to appear before the respondent for personal hearing. However, he would fairly submit that if any order is passed by this Court, the same will be complied with by the respondent.

4. Heard the learned counsel for the petitioner and the learned Government Advocate(T) for the respondent and perused the materials placed before this Court.

5. In the present case, it appears that the notices have been uploaded in the portal under the " view additional notices and orders" column and the same were not at all physically served to the petitioner, due to which, the petitioner was unaware about the said notice. Hence, the reasons provided by the petitioner for being unaware of the notice, which was uploaded in the web portal, are appears to be genuine.

6. 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

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is liable to be set aside.

7. Accordingly, the impugned order dated 14.11.2023 is set aside and remanded the matter back to the respondent on condition that the petitioner shall deposit 10% of the disputed tax demand to the respondent, within a period of four (4) weeks from the date of receipt of a 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.

8. 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
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To
The State Tax Officer,
Purasawakkam Assessment Circle,

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Anna Nagar East,
Chennai – 102.

KRISHNAN RAMASAMY, J.

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