



WEB COPY



W.P.No.28172 of 2024

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.No.28172 of 2024
& W.M.P.Nos.30717 & 30718 of 2024

P.Mani

... Petitioner

Vs.

1.The Appellate Deputy Commissioner (ST)(GST),
Salem & Erode,
Commercial Taxes Building,
Pitchards Road,
Salem 7.

2.The Deputy State Tax Officer,
Harur Assessment Circle,
Harur.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the 1st respondent in Appeal No. & Year: 237/22 and quash the proceedings dated 11.09.2023 passed therein.



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For Petitioner : Mr.B.Raveendran

For Respondent : Mr.G.Nanmaran,
Special Government Pleader

ORDER

This writ petition has been filed challenging the impugned order dated 11.09.2023 passed by the 1st respondent.

2. Mr.G.Nanmaran, learned Special Government Pleader, takes notice on behalf of the respondents. 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 would submit that aggrieved over the order passed by the 2nd respondent, a statutory appeal was filed by the petitioner, vide his authorised representative, before the 1st respondent. However, in non-application of mind, the 1st respondent had sent the notice with regard to the said appeal to the petitioner instead of his authorised representative, due to which, the said authorised



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representative was unable to appear before the 1st respondent. Under these circumstances, the appeal filed by the petitioner was dismissed by the 1st respondent vide the impugned order dated 11.09.2023. Hence, he requests this Court to pass appropriate orders by setting aside the said impugned order.

4. In reply, the learned Special Government Pleader appearing for the respondent had confirmed the submissions made by the petitioner and requests this Court to pass appropriate orders.

5. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents and also perused the entire materials available on record.

6. In the case on hand, the statutory appeal was filed by the petitioner vide his authorised representative. However, the 1st respondent had issued the notice to the petitioner instead of his authorised representative, due to which, the said authorised representative was



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unable to appear before the 1st respondent. Under these circumstances, the impugned order dated 11.09.2023 came to be passed by the 1st respondent.

7. As contended by the learned counsel for the petitioner, when a authorised representative was appointed by the petitioner, the 1st respondent is supposed to have issued notice to the said authorised representative. However, the 1st respondent had failed to do so. In such case, it is clear that the impugned order was passed by the 1st respondent without providing sufficient opportunity to the petitioner, which is violation of principles of natural justice. Therefore, this Court is inclined to grant an opportunity to the petitioner to establish his case before the 1st respondent.

8. Accordingly, this Court passes the following order:

i) The impugned order dated 11.09.2023 is set aside and the matter is remanded back to the 1st respondent for fresh consideration.



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ii) The 1st respondent is directed to consider and dispose of the appeal filed by the petitioner, on its own merits and in accordance with law, after providing sufficient opportunity to the petitioner and his authorised representative.

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

24.09.2024

Speaking/Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

nsa

To

1.The Appellate Deputy Commissioner (ST)(GST),
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KRISHNAN RAMASAMY.J.,

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