IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.09.2024

CORAM

**THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY**

**W.P.No.28415 of 2024 &**

**W.M.P.Nos.30980 & 30981 of 2024**

M/s.Sri Rathinamani Stores,
Rep. by its Prop. R.Pachaikani,
31, Murthinagar Street. Vyasarpadi,
Chennai – 600 039. ... Petitioner

Vs.

The Deputy State Tax Officer – II,
Villivakkam Assessment Circle,
No.15 & 16, 100 feet Road,
Malligai Avenue Kolathur,
Chennai – 600 099. ... Respondent

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari by calling for the records of the respondent in his proceedings in GSTIN:33BIXPR9883E1ZB/ 2017-18 dated 18.12.2023 and quash the same as illegal, arbitrary and against the principles of natural justice.

For Petitioner : Mr.A.Chandrasekaran

For Respondent : Ms.Amirtapoonkodi Dinakaran
Government Advocate [T]

**ORDER**

Challenging the impugned Order of the respondent in in GSTIN:33BIXPR9883E1ZB/ 2017-18 dated 18.12.2023 quash the same as illegal, arbitrary and against the principles of natural justice, the present writ petition has been filed.

2. According to the petitioner, they are a dealer in grocery items and duly registered under the provisions of the Goods and Services Tax Act. The petitioner is a registered dealer under the GST Act. The respondent issued a show cause notice in DRC-01 under section 73 of the CGST Act dated 21.09.2023 without issuing any notice in ASMT 10, intimating discrepancies and calling for explanation as per Rule 99 of the CGST Rules and further without issue of Notice in Form DRC-01A. Stating that there is a difference between the GSTR-3B returns filed by

the petitioner and the auto populated GSTR-2A and proposd to levey and demand tax of Rs.2,47,839 along with interest and penalty. As the petitioner has no knowledge and access to the portal, the petitioner without any assistantce from the auditors was not able to view the portal and therefore, no reply was filed by the petitioner. Hence, the impugned Order passed by the respondent is arbitrary and illegal. Hence, the present writ petition.

3. Heard both sides and perused the documents enclosed in the typed set of papers. By consent of the parties, the main Writ Petition is taken up for disposal at the time of admission stage itself.

4. Though the petitioner raised very many grounds assailing the order impugned herein, the main contention of the learned counsel for the petitioner is that before passing the order impugned herein, the petitioner was not provided reasonable opportunity to submit their oral and written submissions and to file documents to substantiate their claim. Thus, according to the learned counsel, the order impugned

herein is arbitrary, illegal and in violation of the principles of natural justice. The learned counsel further submitted that the petitioner was not provided an opportunity of personal hearing to substantiate their case and seeks to set aside the impugned Order. He further submits that the petitioner is ready to deposit 10% of the disputed tax demand.

5. On the other hand, the learned Special Government Pleader appearing for the respondents submitted that after analysing the facts and circumstances of the case, the respondent has passed the order impugned. However, he fairly submits that if any order is passed by this Court, the same will be complied with by the respondent.

6. Considering the facts and circumstances of the case coupled with the submissions made by the learned counsel on either side would demonstrate that there is clear violation of principles of natural justice on the part of the respondent in passing the order impugned herein, this court passes the following order:

[i] The order impugned herein is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay a 10% of the disputed tax liability to the respondent within a period of four weeks from the date of receipt of a copy of this order;

[ii] The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks thereafter.

[iii] On filing of such reply/objection by the petitioner, the respondent shall consider the same and pass appropriate orders on merits and in accordance with law, after providing an opportunity of personal hearing to the petitioner, as expeditiously as possible.

7. This writ petition is disposed of on the above terms. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

**30.09.2024**

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

vrc

To

The Deputy State Tax Officer – II,
Villivakkam Assessment Circle,
No.15 & 16, 100 feet Road,
Malligai Avenue Kolathur,
Chennai – 600 099.

**KRISHNAN RAMASAMY, J.**

vrc

**W.P.No.28415 of 2024 &**
**W.M.P.Nos.30980 & 30981 of 2024**

**30.09.2024**