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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.28359 of 2024
and W.M.P.Nos. 30921 and 30923 of 2024

S.Saravanan
Prop: Sree Venkateswara Constructions
Plot No.3, Vishnu Nagar Main Road,
Ponniammanmedu, Madhavaram,
Chennai – 600 110 .... Petitioner

Vs.

1.The State Tax Officer, Group II,
Intelligence-11,
Chennai – 600 006.

2.The Senior Intelligence Officer,
Director General of GST Intelligence (DGGI)
Chennai Zonal Unit,
No.16, BSNL Building,
Greams Road, Chennai – 600 006. ... Respondents

Prayer:- Writ Petition is filed, under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for the records of the 1st respondent in Reference No.ZD3306243026150 dated 25.06.2024 and quash the same and consequently, issue a direction to the 1st respondent to provide an opportunity to the petitioner for the purpose of adjudicating the issue in accordance with law.

For Petitioner : Mr.R.Swarnavel

For Respondents : Mr.C.Harsha Raj,
Additional Government Pleader (Tax)

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O R D E R

The present Writ Petition has been filed to call for the records of the 1st respondent in Reference No.ZD3306243026150 dated 25.06.2024 and quash the same and consequently, issue a direction to the 1st respondent to provide an opportunity to the petitioner for the purpose of adjudicating the issue in accordance with law.

2. The learned counsel for the petitioner submits that the petitioner is engaged in the business of civil construction and used to file their monthly returns in FORM GSTR-3B/2A/1 under the TNGST Act, 2017 without any default. While so, the 1st respondent conducted inspection at petitioner's business premises on 16.11.2023 and notified 14 defects under DRC-01A dated 20.02.2024 for the assessment year 2019-2020. After due payment of demanded tax made by the petitioner vide DRC 03 filed in ARN No.Ad3305220566681 and issuance of DRC 04 dated 03.08.2022, the petitioner pleaded for closure of the said proceeding. However, without considering the said payment made by the petitioner, the 1st respondent issued a show cause notice in DRC-01 dated 01.04.2024. The petitioner filed reply to the said notice on 06.03.2024 and sought 20 days time to send reply with appropriate documents. However, without affording any

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opportunity to send reply and for personal hearing, the impugned order came to be passed on 25.06.2024. Therefore, the order passed by the 1st 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 respondents may be set aside and remanded the matter back to the respondent for reconsideration.

3. The learned Additional Government Pleader(T) appearing for the Respondents would submit that the petitioner failed to reply for the said show cause notice dated along with requisite documents, the present impugned order came to be passed by the 1st respondent. Further, he would fairly submit that subject to the payment of 10% of the disputed tax liability, this Court may remand the matter to the respondents for fresh consideration.

4. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents and perused the materials placed before this Court.

5. On perusal of the impugned order, this Court is of the view that no order can be passed without providing sufficient opportunities to the petitioner. However, in the present case, without considering the reply filed

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by the petitioner and without providing opportunity for personal hearing, the 1st respondent passed the present impugned order. Hence, the impugned order is liable to be set aside.

6. Accordingly, the impugned order dated 25.06.2024 is set aside and remanded the matter back to the respondent on condition that the petitioner shall deposit a sum of Rs.30,00,000/- of the disputed tax demand to the respondents, 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.

7. 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 order/Non-Speaking order

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KRISHNAN RAMASAMY, J.

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