IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

WP.No.28615 of 2024
and W.M.P.Nos. 31203 and 31205 of 2024

Tvl.Soman Constructions,
Represented by its Proprietor Soman,
12/984-B4, Devarshola Road,
First Mile,
Gudalur- 643 212. .... Petitioner

Vs.

The Deputy State Tax Officer-1.
Office of the State Tax officer,
Gudalur Assessment Circle,
Gudalur-643 212. ... 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 pertaining to the impugned order in form GST DRC-07 bearing reference number ZD3312230749378/2021-22 dated 12.12.2023 issued by the respondent and quash the same.

For Petitioner	:	Mr.G.Derrick Sam
For Respondent	:	Mr.J.N.C.Kaushik Additional Government Pleader (Tax)

***

O R D E R

The present Writ Petition has been filed to call for the records pertaining to the impugned order in form GST DRC-07 bearing reference number ZD3312230749378/2021-22 dated 12.12.2023 issued by the respondent and quash the same.

2. The learned counsel for the petitioner submits that the petitioner has filed monthly returns without reporting the TDS amount which is received from Government Department and not paid the tax amount. Therefore the impugned order dated 12.12.2023 was uploaded in the portal and that too in "additional notices and orders" 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.

3. The learned Government Advocate 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 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

is liable to be set aside.

7. Accordingly, the impugned order dated 12.12.2023 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
msv

To
The Deputy State Tax Officer-1.
Office of the State Tax officer,

Gudalur Assessment Circle,
Gudalur-643 212.

KRISHNAN RAMASAMY, J.

msv

WP.No.28615 of 2024
and W.M.P.Nos.31203 and 31205 of 2024

27.09.2024