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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.10.2024

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.29493 of 2024 &
W.M.P.Nos.32144, 32145, 32146 and 32147 of 2024

Mr.V.Dinesh Kumar
Prop:SYNERGY PLAST
No.16A, Gandhi Nagar, 3rd Street,
Ganapathy, Coimbatore- 641 006. ... Petitioner

Vs.

The Assistant Commissioner,
Saravanampatti (West) Circle,
Dr.Balasundaram Road,
Coimbatore-18. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records of the Respondent relating to the impugned order dated 22.12.2023 proceedings in GSTIN:33ALWP7452NIZH/2017-18 along with consequential order in DRC-07 with Ref.No.ZD331223169453K so far as the Petitioner herein is concerned, quash the same as illegal, arbitrary and devoid of merits.

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For Petitioner : Mr.James Victor Rajkumar

For Respondent : Mr.G.Nanmaran
Special Government Pleader (Taxes)

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ORDER

This writ petition has been filed by the petitioner challenging the impugned order along with summary order dated 22.12.2023 and to quash the same.

2. Mr.G.Nanmaran, learned Special Government Pleader takes notice on behalf of the Respondent.

3. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

4. The learned counsel for the petitioner would submit that in the present case, initially the Respondent issued Show Cause Notice on 22.12.2023 and the same was uploaded in the GST Portal. Therefore, the Petitioner was not aware of the same and hence failed to file its

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reply. Under such circumstances, impugned order followed by summary order dated 22.12.2023 came to be passed demanding tax and penalty for the Assessment Year 2017-2018. The Petitioner came to know of the said order only during July 2024, when the respondent contacted the petitioner regarding the freezing of the bank account.

5.Further, he would submit that impugned orders came to be passed without affording an opportunity of hearing to the Petitioner and therefore the same is in violation of principles of natural justice and therefore prays to set aside the same.

6. On the other hand, the learned Special Government Pleader (Taxes) would submit that the respondent issued the show cause notice to the Petitioner. But the Petitioner failed to submit reply and therefore the impugned assessment order came to be passed.

7. In reply, the learned counsel for the petitioner would fairly submit that the petitioner is now ready and willing to pay 10% of the

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disputed tax liability made by the respondent in the event of providing an opportunity to them to file their reply along with the required documents to substantiate their claim, for which, the learned Special Government Pleader (Taxes) has no serious objection.

8. Heard the learned counsel for the petitioner and the learned Special Government Pleader (Taxes) for the respondent and also perused the materials available on record.

9. In the present case, since the show cause notice was uploaded in the GST Portal, the petitioner was not aware of the same and subsequently impugned orders came to be passed without affording an opportunity of personal hearing to the Petitioner.

10. Hence, this Court is of the view that the impugned orders are passed in violation of principles of natural justice and it is just and necessary to provide an opportunity to the petitioner to establish their case on merits. In such view of the matter, this Court is inclined to set

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aside the impugned orders dated 22.12.2023 passed by the Respondent. Accordingly, this Court passes the following order:-

(i) The impugned orders dated 22.12.2023 are set aside and the matter is remanded to the respondents for fresh consideration on condition that the petitioner shall pay 10% of disputed tax to the respondents within a period of ***four weeks*** from the date of receipt of a copy of this order and the setting aside of the impugned order will take effect from the date of payment of the said amount.

(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 issue a 14 days clear notice by fixing the date of personal hearing to the petitioner and thereafter, pass appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.

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

14.10.2024

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

The Assistant Commissioner,
Saravanampatti (West) Circle,
Dr.Balasundaram Road,
Coimbatore-18.

KRISHNAN RAMASAMY.J.,

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