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W.P.No.29627 of 2024

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.29627 of 2024 &
W.M.P.No.32280 of 2024

M/s.KSHIPRA VENTURES PRIVATE LIMITED
rep. by its Director Mr.C.C.Viswanathan Nair
GSTIN:33AAGCK6950N1Z3
No.32, Defence Officers Colony,
Ekkatuthangal, Chennai- 600032. ...

Petitioner

Vs.

The Deputy State Tax Officer-1(ST),
Ekkatuthangal Assessment Circle
No.571, Integrated Registration and Commercial
Taxes Building, Room No.306, 3rd Floor,
Nandanam, Chennai 35. ...

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 in the file of the Impugned Order in GSTIN/33AAGCK6950N1Z3/2018-19 dated 08.04.2024 and its summary in Form DRC-07 Ref. No.ZD330424074372L dated 10.04.2024 and to **QUASH** the same.



W.P.No.29627 of 2024

For Petitioner : Ms.Akila S

For Respondents : Mr.T.N.C.Kaushik

Additional Government Pleader

ORDER

This writ petition has been filed by the petitioner challenging the order of the Respondent dated 08.04.2024 and the summary order dated 10.04.2024 and to quash the same.

2. Mr.T.N.C.Kaushik, learned Additional Government Pleader (Taxes) 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, the Respondent issued Show Cause Notice to the petitioner on 19.10.2023 followed by three reminders dated 03.02.2024, 09.02.2024 and 26.02.2024 and the same were uploaded in the GST Portal. Since the Accountant of the Petitioner Company had not noticed



W.P.No.29627 of 2024

the same, the Petitioner was not aware of the said notices and hence they had failed to file their reply. Under these circumstances, the impugned assessment order dated 08.04.2024 along with summary order dated 10.04.2024 came to be passed by the Respondent demanding tax along with penalty and interest for the Assessment Year 2018-2019 and the same was also uploaded in the GST portal. The Petitioner came to know of the impugned orders from the Respondent office only after the lapse of Appeal period .

5.Further, he would submit that impugned assessment order 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 Additional Government Pleader (Taxes) would submit that the respondent uploaded the show cause notice as well as the reminder notices in the Online Portal. But the



W.P.No.29627 of 2024

petitioner failed to submit reply to substantiate its case 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 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 Additional Government Pleader (Taxes) has no serious objection.

8. Heard the learned counsel for the Petitioner and the learned Additional Government Pleader (Taxes) for the Respondent and also perused the materials available on record.

9. In the present case, since the show cause notice as well as the reminder notices were uploaded in the GST Portal, the petitioner was not aware of the same and therefore they were not in a position to file reply for the show cause notice.



W.P.No.29627 of 2024

WEB COPY

10. Further, it appears that no opportunity of personal hearing was provided to the Petitioner prior to the passing of impugned orders. 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 aside the impugned orders dated 08.04.2024 and 10.04.2024 passed by the Respondent. Accordingly, this Court passes the following order:-

(i) The orders impugned herein are set aside and the matter is remanded to the Respondent 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 orders 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.



WEB COPY



W.P.No.29627 of 2024

(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.

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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W.P.No.29627 of 2024

WEB COPY

To

The Deputy State Tax Officer-1(ST),
Ekkatuthangal Assessment Circle
No.571, Integrated Registration and Commercial
Taxes Building, Room No.306, 3rd Floor,
Nandanam, Chennai 35.



WEB COPY



W.P.No.29627 of 2024

KRISHNAN RAMASAMY.J.,

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