



W.P.No.31365 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.10.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.31365 of 2024
& W.M.P.Nos.34042 & 34043 of 2024

Toyo Industries,
Rep by its Partner, R.Pandiyan,
No.1, Thiruvarkadu Main Road,
Gangai Amman Nagar,
Pallikuppam, Chennai 600 077.

... Petitioner

Vs.

The Commercial Tax Officer,
Vanagaram:Poonamallee:Kancheepuram,
4/109, Second Floor,
Bangalore Chennai Highway, Varadarajapuram,
Nazarathpet, Chennai 600 123.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the respondent order in Ref.No.ZD330424082844A/2018-19 dated 10.04.2024 and quash the same.



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For Petitioner : Mr.S.Ramanan

For Respondent : Mr.V.Prashanth Kiran,
Government Advocate

ORDER

This writ petition has been filed challenging the impugned order dated 10.04.2024 passed by the respondent.

2. Mr.V.Prashanth Kiran, learned Government Advocate, takes notice on behalf of the respondent. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that a show cause notice was issued by the respondent on 14.12.2023 alleging that there was a mismatch in GSTR-1 and GSTR-3B. However, the petitioner was unable to file their reply since the authorized person of the petitioner-company was not well. Under these circumstances, the impugned order came to be passed by the respondent without providing any opportunity for filing reply and personal hearing to the petitioner. Hence, this petition has been filed.



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4. On the other hand, the learned Government Advocate appearing for the respondent would submit that the show cause notice issued by the respondent was duly received by the petitioner. But the petitioner failed to avail the said opportunity. Further, he has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, he requested this Court to remit the matter back to the respondent, subject to the payment of 10% of the disputed amount by the petitioner.

5. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondent and also perused the materials available on record.

6. In the case on hand, the respondent had issued a show cause notice to the petitioner on 14.12.2023, however, due to the health issues of the authorized person, the petitioner was unable to file their reply within time. Under these circumstances, the impugned order came to be passed by the respondent on 10.04.2024.



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7. Further, it is clear that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Hence, this Court is of the view that the impugned order was passed in violation of principles of natural justice since 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 order dated 10.04.2024 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 10.04.2024 is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay 10% of disputed tax amount to the respondents within a period of four weeks from today (28.10.2024) 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 three weeks from the date of receipt of copy of this order.

(iii) On filing of such reply/objection by the petitioner, the respondent shall consider the same and



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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.

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

28.10.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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KRISHNAN RAMASAMY.J.,

nsa

To

The Commercial Tax Officer,
Vanagaram:Poonamallee:Kancheepuram,
4/109, Second Floor,
Bangalore Chennai Highway, Varadarajapuram,
Nazarathpet, Chennai 600 123.

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