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W.P.No.32358 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.10.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.32358 of 2024

and

W.M.P.Nos.35139 and 35140 of 2024

M/s.Om Sri Vari Enterprises,
represented by its Proprietor,
Mr.T.Vishwanathan,
No.2/674, JK Complex,
Tiruvallur High Road,
Sunguvachatram - 602 106,
Kancheepuram.

...Petitioner

Vs.

The Deputy State Tax Officer-2,
Sriperumbudur Assessment Circle,
Sriperumbudur.

... Respondent

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records of the Respondent in his proceedings in Reference No.ZD3304240972594, quash the order dated 12.04.2024 passed therein for the tax period April 2018 to March 2019.

For Petitioner : Mr.P.V.Sudakar

For Respondent : Ms.Amirthapoonkodi Dinakaran
Government Advocate (Taxes)



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ORDER

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This Writ Petition has been filed challenging the order of the Respondent dated 12.04.2024 passed therein for the tax period April 2018 to March 2019.

2. Ms.Amirtha Poonkodi Dinakaran, learned Government Advocate (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 time of admission stage itself.

4. The learned counsel for the petitioner submits that show cause notice dated 21.01.2022 was issued to the Petitioner. Since the same was uploaded in "view additional notices and orders" tab of the GST Portal, the Petitioner was not aware of the same and hence unable to file its reply. Under such circumstances, impugned assessment order dated 12.04.2024 came to be passed by the Respondent demanding tax along with interest and penalty for the Assessment Year 2018-19 and the same was also uploaded in the GST portal . The Petitioner came to know of the said order from the Respondent



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only during 1st week of October 2024.

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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. The learned Government Advocate (Taxes) appearing for the Respondent submitted that though the Show Cause Notice was issued to the Petitioner, by uploading the same in the GST portal, the Petitioner failed to submit its reply and therefore impugned assessment order came 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 Government Advocate (Taxes) has no serious objection.

8. Heard the learned counsel for the petitioner and the learned Government Advocate (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 failed to submit its



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reply.

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10. Further, it appears that opportunity of personal hearing was not granted to the Petitioner prior to passing of impugned order. Hence, this Court is of the view that the impugned order passed is 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 assessment order dated 12.04.2024 passed by the Respondent. Accordingly, this Court passes the following order:-

(i) The order impugned herein 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 to the Respondent 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



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petitioner and thereafter, pass appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.

11. Accordingly, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

30.10.2024

Speaking/Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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Krishnan Ramasamy,J.,

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To

The Deputy State Tax Officer-2,
Sriperumbudur Assessment Circle,
Sriperumbudur.

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30.10.2024