IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.10.2024

CORAM

**THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY**

**W.P.No.32462 of 2024 &**
**W.M.P.Nos.35253 and 35254 of 2024**

Kanmani Stores,
Represented by its Proprietor
P.T.Arumugasamy,
Door No.414, NA, C.T.H.Road,
Avadi,
Chennai- 600054. ... Petitioner

..Vs..

Assistant Commissioner (ST)(FAC),
Avadi Assessment Circle,
Survey No.1275/3, Integrated Commercial Taxes
Building, (North/Tiruvallur Division),
First Floor, Room No.124,
Elephant Gate Bridge Road, Vepery,
Chennai-600003. ... Respondent

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the impugned order of the respondent passed in GSTIN:33AWDPA0645E1ZB/2018-19 dated 29.04.2024 and quash the same.

For Petitioner : Mr.R.Kumar

For Respondents : Mr. C.Harsha Raj
Additional Government Pleader (Taxes)
***

**ORDER**

This writ petition has been filed by the petitioner challenging the impugned order dated 29.04.2024 passed by the Respondent and to quash the same.

2. Mr.C.Harsha Raj, 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 and the same was uploaded in the "View Additional Notices and Orders" tab in the GST Portal. Since the part time accountant could not follow

the uploading of notices and personal hearings etc. in the GST Portal, the Petitioner was not aware of the Show Cause Notice and hence they had failed to file their reply. Under these circumstances, the impugned assessment order dated 29.04.2024 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 order from the Respondent belatedly.

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 personal hearing notice in the Online Portal. But

the 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, show cause notice was uploaded in the GST Portal and since the Petitioner's part time accountant could not follow the uploading of notices and personal hearings etc. in the GST Portal, the petitioner was not aware of the show cause notice and hence failed to submit its reply for the show cause notice.

10. Further, it appears 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 is 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 order dated 29.04.2024 passed by the Respondent. Accordingly, this Court passes the following order:-

> (i) The impugned order dated 29.04.2024 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 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 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.

(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.

**30.10.2024**
(2/3)

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

To

Assistant Commissioner (ST)(FAC),
Avadi Assessment Circle,
Survey No.1275/3, Integrated Commercial Taxes
Building, (North/Tiruvallur Division),
First Floor, Room No.124,
Elephant Gate Bridge Road, Vepery,
Chennai-600003.

**KRISHNAN RAMASAMY.J.,**

arr

**W.P.No.32462 of 2024**

**30.10.2024**