

W.P.No.9064 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2024

CORAM

THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P.No.9064 of 2024 and
W.M.P.Nos.10072 and 10074 of 2024

M/s.Alliance Granimarmo Pvt Ltd.,
(Represented by its Head Legal Ashok Kumar Mishra)
Survey No.175/2A2, 175/2B, 175/3B2,
Kalaingar Karunanidhi Salai,
Sholinganallur 1st Avenue,
Sholinganallur, Chennai - 600 119.

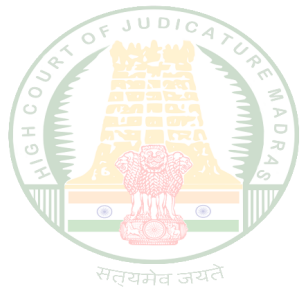
... Petitioner

Vs.

1. The Assistant Commissioner (ST) (FAC),
Harbour Assessment Circle,
Integrated Commercial Taxes Office Complex,
Room No.327, Elephant Gate Bridge Road,
Chennai - 600 003.
2. The Commercial Tax Officer,
Harbour Assessment Circle,
Integrated Commercial Taxes Office Complex,
Elephant Gate Bridge Road,
Chennai - 600 003.

... Respondents

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorari, to call for records relating to impugned order bearing GSTIN.33AACCA4371K1ZR/2017-2018, dated 26.12.2023 passed by the First Respondent and quash the same.



WEB COPY



W.P.No.9064 of 2024

For Petitioner : Mr.G.Natarajan

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

- - - - -

ORDER

The present Writ Petition is filed for the issuance of a Writ of Certiorari, to call for records relating to impugned order bearing GSTIN.33AACCA4371K1ZR/2017-2018, dated 26.12.2023 passed by the First Respondent and quash the same.

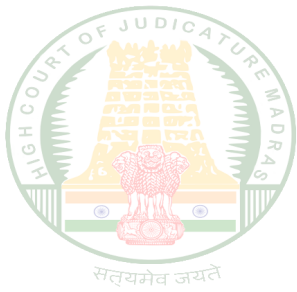
2. The learned counsel for the petitioner submits that on scrutiny of the returns filed by the petitioner, the Department has issued a show cause notice in Form DRC-01 dated 27.09.2023 wherein it has been alleged that the petitioner has availed excess ITC on the inputs on which tax is payable under RCM, non-reversal of the ITC availed on credit notes reversed by them. In this regard, to the show cause notice, the first respondent issued a personal hearing intimation dated 08.12.2023 calling for personal hearing on 15.12.2023. Since the petitioner's Finance Manager was not well on 14.12.2023, they sought for an adjournment for the hearing fixed on 15.12.2023 to the Commercial Tax Officer, the second respondent who issued the show cause notice. The second respondent informed that the matter was adjourned to 28.12.2023. On



W.P.No.9064 of 2024

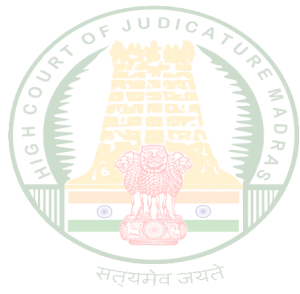
28.12.2023, when the petitioner went in person to attend the personal hearing, they were informed that the order was passed on 26.12.2023 confirming the demand as proposed in the show cause notice. The petitioner has duly sought an adjournment for the personal hearing fixed and the adjournment was also granted. However, without informing the petitioner and given them another opportunity for personal hearing, the order was passed by the first respondent wherein huge demand of tax of Rs.1,95,89,806/- each under CGST and SGST and Rs.3,38,982/- under IGST along with interest and penalty. Hence, the learned counsel for the petitioner submits that the order dated 26.12.2023 was passed in violation of principles of natural justice. He also submits that the petitioner has already paid 10% of the disputed tax demand and requests this Court to grant one more opportunity to establish the case before the Assessing Authority.

3. The learned Additional Government Pleader for the respondent submits that subject to verification of the payment of 10% of the disputed tax demand, the matter may be remitted back to the authority concerned for reconsideration.

*W.P.No.9064 of 2024*

4. Heard the learned counsel for the petitioner as well as the learned Additional Government Pleader for the respondent and perused the materials on record.

5. Considering the fact that though the petitioner sought for an adjournment for personal hearing to establish their case, the impugned order came to be passed without providing an opportunity to the petitioner, which is clear violation of principles of natural justice, the impugned order bearing GSTIN.33AACCA4371K1ZR/2017-2018, dated 26.12.2023 passed by the first respondent is set aside. While setting aside the impugned order, this Court remits the matter back to the first respondent for reconsideration. The petitioner is directed to file their reply within a period of two (2) weeks from the date of receipt of a copy of this order. Thereafter, the first respondent is directed to afford opportunity of personal hearing by providing 14 days time and thereafter, pass final orders in accordance with law.



W.P.No.9064 of 2024

WEB COPY

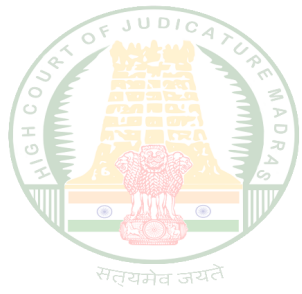
With the above directions, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, the connected Miscellaneous Petitions are closed.

07.08.2024

asi

To

1. The Assistant Commissioner (ST) (FAC),
Harbour Assessment Circle,
Integrated Commercial Taxes Office Complex,
Room No.327, Elephan Gate Bridge Road,
Chennai - 600 003.
2. The Commercial Tax Officer,
Harbour Assessment Circle,
Integrated Commercial Taxes Office Complex,
Elephant Gate Bridge Road,
Chennai - 600 003.



WEB COPY



W.P.No.9064 of 2024

KRISHNAN RAMASAMY, J.
asi

W.P.No.9064 of 2024 and
W.M.P.Nos.10072 and 10074 of 2024

07.08.2024