IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.10.2022

CORAM:

THE HON'BLE **MR.JUSTICE M.DHANDAPANI**

W.P.No.28637 of 2022

and

M.P.Nos.27913 & 21916 of 2022

Tvl.Govindhasamy Thirupathy . . . Petitioner

Vs.

The State Tax Officer (Circle)
Harur Assessment Circle,
Harur. . . . Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records on the files of the respondent in GSTIN; AWHPT246L1Z4/2019-20 dated 24.12.2021 and quash the same as being without jurisdiction.

For Petitioners : Mr.R.Senniappan

For Respondents : Mr.Amirta Dinakaran,
Government Advocate

ORDER

The present petition has been filed seeking to quash the impugned order dated 24.12.2021 which was passed by the respondent.

2. Mr.Amirta Dinakaran, learned Government Advocate takes notice for the respondent.

3. It is the case of the petitioner that show cause notice is alleged to have been issued to the petitioner relating to non-payment of taxes payable by the petitioner. However, without causing any notice to the petitioner and even without affording an opportunity of personal hearing, the present impugned order dated 24.12.2021 has come to be passed by the respondent, which is against the principles of natural justice. Challenging the said impugned order, the present petition has been filed.

4. Learned counsel for the petitioner submits that though the notice was issued, however, due to non-communication, the petitioner could not appear for the enquiry before the authority during the enquiry and without

affording another opportunity and without hearing the petitioner, the impugned order has come to be passed. Therefore, the said order may be quashed and this Writ Petition may be allowed.

5. Learned standing counsel appearing for the respondent submits that though notice was issued to the petitioner however, the petitioner did not appear for the enquiry which resulted in passing of the present impugned which cannot be found fault with.

6. This Court heard the learned counsel on the either side and perused the materials available on record.

7. It is evident from the materials available on record that the impugned order has come to be passed in the absence of the petitioner. Though notice was issued, which was served on the petitioner, the petitioner pleads that he was unable to participate in the enquiry. Principles of natural justice warrants hearing the petitioner before passing the order and therefore, as a matter of prudence, the petitioner should have been granted

one more opportunity. Therefore, this Court is inclined to set aside the impugned order. Accordingly, the order impugned in this Writ Petition is set aside and the matter is remanded to the respondent for fresh consideration by affording an opportunity of personal hearing to the petitioner. The petitioner is directed to appear before the respondent for enquiry and submit his explanation within a period of two weeks from the date of receipt of the copy of this order. On receipt of the same, the respondent is directed to pass appropriate orders on merits and in accordance with law, within a period two weeks thereafter.

8. Accordingly, this Writ Petition is allowed with the above direction. No Costs. Consequently, the connected Miscellaneous Petitions are closed.

28.10.2022

NHS
Index : Yes / No
Internet : Yes / No

To

The State Tax Officer (Circle)
Harur Assessment Circle,
Harur.

M.DHANDAPANI, J.

NHS

W.P.No.28637 of 2022

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