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W.P.No.5750 of 20__

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **01.03.2023**

CORAM

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

W.P.No.5750 of 2023 and W.M.P. No.5747 of 2023

Sri Gayathri Agencies,
represented by its Proprietor
M.K.Tamilarasi

... Petitioner

Vs.

The State Tax Officer,
Salem Town (West) Assessment Circle,
Salem.

... Respondent

Prayer: 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:33ABCPT7686AIZL/2017-18 dated 31.10.2022 and quash the same as being without jurisdiction and authority of law and contrary to the principles of natural justice.

For Petitioner	:	Mr.R.Senniappan
For Respondent	:	Mr.V.Prasanth Kiran, Government Advocate

ORDER

This writ petition has been filed, challenging the assessment order dated 31.10.2022 passed in respect of the assessment year 2017-18 under the GST Act 2017.



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2.The petitioner has challenged the impugned assessment order on the ground of violation of principles of natural justice as the petitioner was not granted personal hearing in the impugned assessment proceedings. Section 75(4) of the GST Act 2017 mandates personal hearing to be given to the assessee if any adverse decision is taken against the assessee in the assessment proceedings.

3.Admittedly, in the impugned assessment order, an adverse decision has been taken against the petitioner, which is the subject matter of challenge in this writ petition.

4.On the last hearing date, this Court directed the learned Government Advocate appearing for the respondent to get instructions as to whether personal hearing was granted to the petitioner in respect of the impugned proceedings, pertaining to the assessment year 2017-18. On instructions, learned Government Advocate appearing for the respondent submits that no personal hearing was afforded to the petitioner in respect of the assessment year 2017-18.



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5. Section 75(4) of the GST Act 2017 makes it clear that in cases, where an adverse decision is taken by the Assessing Officer against the assessee, personal hearing is mandatory. Admittedly, in the assessment proceedings, pertaining to the assessment year 2017-18, no personal hearing was afforded to the petitioner. This being the case, on the ground of violation of principles of natural justice as the impugned assessment order has been passed contrary to Section 75(4) of the GST Act 2017, which mandates personal hearing, the impugned assessment order dated 31.10.2022, pertaining to the assessment year 2017-18 has to be quashed and the matter has to be remanded back to the respondent for fresh consideration, on merits and in accordance with law.

6. For the foregoing reasons, the impugned assessment order dated 31.10.2022 passed in respect of the assessment year 2017-18 is hereby quashed and the matter is remanded back to the respondent for fresh consideration, on merits and in accordance with law. The respondent shall pass final orders, after adhering to the principles of natural justice, including granting the petitioner the right of personal hearing.



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ABDUL QUDDHOSE,J.

vga

7.With the above direction, this writ petition stands disposed of.

Consequently, connected W.M.P. stands closed. No costs.

01.03.2023

vga

To

The State Tax Officer,
Salem Town (West) Assessment Circle,
Salem.

W.P.No.5750 of 2023 and W.M.P. No.5747 of 2023



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