



WEB COPY



W.P.No.10762 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.08.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.10762 of 2023

and

W.M.P.No.10704 of 2023

M/s.K.P.S & Co
Rep by its proprietor
B.S.Prassanna Srivatssan

... Petitioner

Vs.

1.The Principal Commissioner of CGST and
Central Excise,
Chennai North Commissionerate,
No.26/1, Mahatma Gandhi Road,
Chennai - 600 034.

2.The Joint Commissioner,
Office of the Principal Commissioner of CGST
and Central Excise,
Chennai North Commissionerate,
No.26/1, Mahatma Gandhi Road,
Chennai - 600 034.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned Order-in-Original No.130/2022 CH.N(JC) dated 09.12.2022 passed by the 2nd respondent and quash the same.



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For Petitioner : Mr.C.Sivakumar

For Respondents : Mr.S.Gurumoorthy
Senior Panel Counsel

ORDER

The Petitioner was issued with a Show Cause Notice dated 28.04.2022 under Section 73 of the Finance Act, 1994.

2. The Show Cause Notice was served to the petitioner's address at 12/21, 2nd Line Beach, Parrys, Chennai, Tamil Nadu - 600 001, which remained unserved on the petitioner as the petitioner had shifted the place of business from aforesaid address to Flat No.14, AK Nayak Bhavan, 6th Floor, Jahangir Street, Muthialpet, George Town, Chennai.

3. After the petitioner had shifted to his new place of business, the petitioner had intimated the change of address in the GST portal bearing its new address Flat No.14, AK Nayak Bhavan, 6th Floor, Jahangir Street, Muthialpet, George Town, Chennai to the respondents.



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4. The petitioner failed to respond to the Show Cause Notice dated 28.04.2022. The personal hearing notice dated 26.09.2022, sent to the petitioner's former address fixing date of hearing on the following three dates thus remained unserved:

<i>Date and Time</i>
03.10.2022 at 14.30 hrs (or)
10.10.2022 at 14.30 hrs (or)
17.10.2022 at 14.30 hrs,

5. Thus, the petitioner has suffered an adverse order in the hands of the second respondent vide impugned Order-in-Original No.130/22 CH.N (JC) dated 09.12.2022. The petitioner has however received a recovery notice dated 22.03.2023, at his new address. Hence, the petitioner is before this Court stating that the impugned order has been passed in violation of principles of the natural justice.

6. Opposing the prayer, the learned Senior Panel Counsel for the respondents submit that the petitioner has failed to pay tax as was required and also failed to appear in a personal hearing. It is submitted that the Show Cause Notice has been served on the petitioner, however, the petitioner has



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shifted his place of business to the new address and the same was not intimated to the original authority after the issuance of Show Cause Notice and thus, the impugned order came to be passed confirming the demand proposed in the Show Cause Notice.

7. Heard the learned counsel for the petitioner and the learned Senior Panel Counsel for the respondents.

8. There is no merits in the impugned order as admittedly prior to the issuance of Show Cause Notice dated 28.04.2022, the petitioner had shifted the place of business to Flat No.14, AK Nayak Bhavan, 6th Floor, Jahangir Street, Muthialpet, George Town, Chennai. The petitioner had sent suitable intimation regarding the change of address in the Web Portal on 07.04.2022.

9. Thus, the proceedings initiated were continued without proper service of notice on the petitioner. Therefore, the Impugned order is liable to be quashed. It is accordingly quashed and the case is remitted back to the respondents to pass fresh order on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order.



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WEB COPY 10. Needless to state, before passing such order, the petitioner shall be heard.

11. The impugned order which stands quashed shall be treated as a corrigendum to the Show Cause Notice dated 28.04.2022. The petitioner shall file reply to the Show Cause Notice within a period of four weeks from today.

12. The present Writ Petition is disposed of with the above observations. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

10.08.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No

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C.SARAVANAN, J.

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To

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