



W.P.Nos.29886 & 29890 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.10.2023

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.Nos.29886 & 29890 of 2023
and
W.M.P.Nos. 29499 & 29505 of 2023

Tvl.Deepam Constructions,
Rep by Managing Director,
No.3, Kuravar Street,
Elavalapakkam Village, Perumukkal Post,
Tindivanam Taluk 604 301

... Petitioner in both petitions

Vs.

The State Tax Officer,
Tindivanam Assessment Circle,
Vellore Division,
Villupuram Sub-Division.

... Respondent in both petitions

Common Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the respondent's order in GSTIN33AAKFD2735K1ZF/2017-18 dated 26.06.2023 and GSTIN33AAKFD2735K1ZF/2017-18 dated 27.06.2023 respectively and quash the same to extent of the demands raised in defects 1 and 2.



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For Petitioner
in both petitions : Mr.Adithya Reddy

For Respondent
in both petitions : Mr.V.Prashanth Kiran,
Government Advocate

COMMON ORDER

These writ petitions have been filed to quash the impugned orders in GSTIN33AAKFD2735K1ZF/2017-18 dated 26.06.2023 and GSTIN33AAKFD2735K1ZF/2017-18 dated 27.06.2023.

2. Mr.V.Prashanth Kiran, learned Government Advocate 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 the respondent had not provided any opportunity to the petitioner for personal hearing subsequent to the filing of reply to the show cause



notice. Further, he would fairly submit that the respondent had fixed a date for personal hearing on two occasions i.e., on 23.03.2023 and 29.03.2023 and on those occasions, the petitioner had not asked for any adjournment for filing reply. Thereafter, the reply of the petitioner was filed directly on 25.05.2023. In the said reply, the petitioner had requested the respondent to provide an opportunity for personal hearing. However, though the said reply was considered by the respondent elaborately in the impugned orders, the respondent had not provided any opportunity for personal hearing to the petitioner.

5. Further, it was submitted by the learned counsel for the petitioner that if an opportunity of personal hearing was provided to them, they would have convinced the respondent. Therefore, he would contend that the said impugned orders were passed in violation of principles of natural justice and hence, the same are liable to be quashed.

6. In reply, the learned counsel for the respondent would submit that earlier on two occasions, the respondent had provided opportunity



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for personal hearing i.e., on 23.03.2023 and 29.03.2023. However, no one had appeared on those two occasions. Thereafter all of a sudden, the petitioner had filed a reply dated 25.05.2023 and the said reply was also elaborately considered in the impugned orders dated 26.06.2023 and 27.06.2023. Therefore, he would submit that there is no question of violation of principles of natural justice.

7. Further, he would fairly submit that in the reply filed by the petitioner on 25.05.2023, the petitioner had requested for personal hearing and though the respondent had considered the said reply, no opportunity was provided to the petitioner except the two hearings as stated above. Hence, he would request this Court to pass any appropriate orders.

8. Heard the learned counsel for the petitioner and the respondent and also perused the materials available on record.

9. In the present case, the only issue that has to be decided is as to whether an opportunity for personal hearing was provided to the



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petitioner or not? It is not that the respondent had not at all provided the opportunity for personal hearing, it is only as to whether the said opportunity was provided at the appropriate stage or not. The appropriate stage in the present case was after the filing of reply by the petitioner.

10. The respondent had accepted the reply dated 25.05.2023 and considered the same in the impugned order. However, no opportunity was provided for personal hearing inspite of a request, which was made in the reply filed by the petitioner on 25.05.2023. The opportunity of the personal hearing should have been provided only after filing the reply. The respondent had accepted the petitioner's reply dated 25.05.2023. However, no personal hearing was provided. Thus the impugned order was passed in violation of principles of natural justice. In such view of the matter, this Court is inclined to set aside the impugned order passed by the respondent and while setting aside the impugned order, this Court remit this matter back to the respondent to re-consider and dispose of the same by providing an opportunity of personal hearing to the petitioner.



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11. At this juncture, the learned counsel for the respondent would request that if this Court decided to remit back this matter, a direction shall be issued to the respondent to fix any date, on which the petitioner shall appear before the respondent for personal hearing and the learned counsel for the petitioner would undertake that the petitioner will appear on the date fixed by the respondent.

12. Accordingly, the respondent is directed to fix a date for personal hearing and on that date, the petitioner shall appear before the respondent to present their case without fail.

13. With the above directions, these writ petitions are disposed of. Consequently, the connected miscellaneous petitions are also closed.

16.10.2023

Speaking/Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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KRISHNAN RAMASAMY.J.,
nsa

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