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W.P.Nos.34646 & 34651 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.12.2023

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.Nos.34646 & 34651 of 2023
and
W.M.P.Nos.34597 & 34604 of 2023

Johnson Bevisedmond

... Petitioner in both petitions

Vs.

1.The Joint Commissioner of GST & Central Excise,
Ambattur Division, Chennai North Commissionerate,
R-40/A-1, TNHB Building, 100 Feet Road,
Moggapair (East), Chennai 600 037.

2.The Superintendent of GST & Central Excise,
Range-II, Ambattur Division,
Chennai North Commissionerate,
R-40/A-1, TNHB Building, 100 Feet Road,
Moggapair (East), Chennai 600 037.

... Respondent in both petitions

Prayer in W.P.No.34646 of 2023:

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
impugned order-in original No.52/2023 (S.Tax-DC) dated 29.03.2023
passed by the 1st respondent and quash the same.



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Prayer in W.P.No.34651 of 2023:

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 impugned recovery letter dated 14.09.2023 issued by the 2nd respondent and quash the same.

For Petitioner
in both petitions : Mr.G.Derrick Sam

For Respondent
in both petitions : Mr.K.Mohanamurali,
Senior Standing counsel

COMMON ORDER

These writ petitions have been filed challenging order dated 29.03.2023 passed by the 1st respondent and recovery letter dated 14.09.2023 issued by the 2nd respondent.

2. Mr.K.Mohanamurali, learned Senior Standing counsel, takes notice on behalf of the respondents. By consent of the parties, the main writ petitions are taken up for disposal at the admission stage itself.



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3. The learned counsel for the petitioner would submit that prior to the passing of the said impugned order dated 29.03.2023, the respondent had provided two opportunities of personal hearings on 16.12.2022 and 16.01.2023. However, since the petitioner had shifted his residences from Chennai to Trichy, he had received the said notices belatedly. Further, since the petitioner was held up in conducting examinations, he was not able to appear for the aforesaid personal hearings.

4. He would also submit that legally, the petitioner is entitled for three opportunities of personal hearing, however, only two opportunities were provided to him. Hence, he would contend that the said impugned order dated 29.03.2023 has been passed by the 1st respondent in violation of principles of natural justice. Under these circumstances, he pleaded this Court either to set aside the impugned order for deciding the matter after affording opportunities of personal hearing to the petitioner or to permit the petitioner to file the appeal, without insisting for limitation.



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5. In reply, the learned counsel for the respondent would submit that since the petitioner is intend to file the appeal, this Court may pass any orders granting liberty to the petitioner to approach the Appellate Authority.

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

7. In view of the above, this Court grants liberty to the petitioner to approach the Appellate Authority by filing the appeal within a period of 30 days from the date of receipt of copy of this order. In such case, the Appellate Authority is also directed to entertain the appeal filed by the petitioner without insisting the issue of limitation and pass orders in accordance with law.

8. In the meantime, there shall be an order of interim stay of the recovery proceedings until the filing of appeal. It is also made clear that if the petitioner failed to file the appeal within a period of 30 days, the said



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interim stay will automatically stand vacated.

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9. With the above directions, these writ petitions are disposed of.

No cost. Consequently, the connected miscellaneous petitions are also closed.

18.12.2023

Speaking/Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

nsa

To

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