



W.P.(MD) No.1986 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.06.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.1986 of 2023

and

W.M.P(MD) No.1747 of 2023

G.Kanagaraj

... Petitioner

Vs.

The Assistant Commissioner (ST)-3,
Sivakasi.

... Respondent

Prayer :- Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, to call for the records of the respondent in his impugned proceeding in TNGST: 6001606/A3/1156/2017 and quash the impugned proceeding dated 06.01.2023 passed therein.

For Petitioner : Mr.B.Raveendran

For Respondent : Mr.J.John Rajadurai
Government Advocate



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ORDER

The above writ petition is filed challenging the impugned recovery notice dated 06.01.2023 passed by the respondent.

2. The brief facts which are necessary for disposing of this writ petition are as follows:-

It is the case of the petitioner that he is a dealer of two wheeler vehicles spares and accessories. For the assessment years 2000-2001, 2001-2002 and 2002-2003, a revised order came to be passed by the respondent which was challenged by the petitioner in Writ Petition Nos. 1589, 1590 and 1591 of 2012 respectively. These writ petitions were dismissed. Against which, the petitioners had filed W.A.Nos.795 to 797 of 2012. The said writ appeals were allowed and the assessment orders were set aside and the matter was remanded back to the respondent, who was directed to dispose of the revision assessment cases afresh, after considering the documents already filed and further relevant documents and giving sufficient opportunity to the parties and a period of twelve weeks was given for completing the said exercise. It is the case of the



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petitioner that no notice thereafter was received by them. However, the impugned recovery notice has been received by the petitioner, against which, the present writ petition has been filed for the issuance of writ of certiorari to call for the records and quash the same.

3. Heard the learned counsel appearing for the petitioner, who made the same representation as contained in the affidavit.

4. Mr. John Rajadurai, learned Government Advocate was calling upon to produce the files, which were produced today before the Court. A perusal of the files would clearly indicate that after the order dated 08.01.2013 till the date of the passing of the impugned recovery notice i.e., 06.01.2023, no communication was received from the respondent. In fact, on 26.10.2022, the petitioner had sent his representation with the documents, to which also, there has been no response. The respondent would submit that pending this writ petition, the petitioner was asked to appear for enquiry, which he had not complied with and therefore, there was no merit in the writ petition. However, a perusal of the impugned



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recovery notice and the files, clearly bring out the fact that between 2013-2017, there has not been even a single communication from the respondent. Therefore, the impugned recovery notice has to definitely be set aside as it is contrary to the orders of this Court in W.A.Nos.795 to 797 of 2012.

5. In fine, this Writ petition is allowed and the order impugned dated 06.01.2023 passed by the respondent in TNGST: 6001606/A3/1156/2017 is set aside. The respondent shall issue fresh notice by registered post with acknowledgment card to the petitioner and thereafter pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

08.06.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes
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P.T.ASHA, J.

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