



W.P.(MD).No.6874 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 29.08.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

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and

W.M.P.(MD).Nos.6426 and 6427 of 2023

Tvl.Diamond Shipping Agencies Private Limited,
(Trade Name: Diamond Global Forwarder)
Represented by its Joint Managing Director,
Mr.P.Sivakumar,
7B/1/17/3 Shaanu Plaza,
Sivanthakulam Second Street,
Caldwell Colony Main,
Tuticorin.

... Petitioner

Vs.

The Assistant Commissioner (ST),
Tuticorin-II Assessment Circle,
Tuticorin.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned proceedings passed by the respondent in his proceedings in order No.GSTIN: 33AAACD6487H3ZJ (Tax Period: 2017-18) and Form GST DRC-07 Reference Number: ZD330822011579E, dated 17.08.2022 and quash the same as the same is passed by grossly violating the Principles of Natural Justice and also passed by violating the statutory



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provisions and to redo the assessment afresh after providing the petitioner an opportunity of personal hearing.

For Petitioner : Mr.K.Srinivasan

For Respondents : Mr.R.Suresh Kumar,
Additional Government Pleader.

ORDER

This Writ Petition is filed to quash the impugned order dated 17.08.2022 for the assessment year 2017-2018.

2. The contention of the petitioner is that assessment order is passed by violative the principles of natural justice and consequently direct the respondent to re-do the assessment. The petitioner is having three business verticals of the same PAN, but the respondents have passed order without considering the annual returns in GSTR-9 and Auditor's statement filed in GSTR-9C for the said three business verticals. Therefore, the petitioner claims that if an opportunity is granted, he would explain the same to the authorities. Since the same is not granted, the petitioner is before this Court. Moreover, the respondent without serving physical notice / order the impugned order is passed which is against the Section 169(1)(b) of the Act.



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3. This Court is of the considered opinion that the impugned order is passed without serving notice as per section 169(1)(b) and without taking into account that the petitioner is having three business verticals. Therefore, this Court is inclined to quash the impugned order. Hence, the impugned order is quashed. The respondent is directed to grant opportunity to the petitioner, preferably grant personal hearing and thereafter pass orders. The petitioner shall produce all the evidences and documents before the respondent. The respondent is directed to complete the assessment proceedings within a period of eight (8) weeks from the date of receipt of a copy of this order.

4. In view of the above, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

29.08.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No

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S.SRIMATHY, J.

Nsr

To
The Assistant Commissioner (ST),
Tuticorin-II Assessment Circle,
Tuticorin.

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