



W.P.(MD) No.15244 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.06.2023

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THE HONOURABLE Ms.JUSTICE P.T.ASHA

W.P.(MD) No.15244 of 2023

and

W.M.P.(MD) Nos.12854 and 12857 of 2023

S.Rajendran

... Petitioner

/vs./

1.The Deputy Commissioner of CGST & Central Excise,
Madurai-II Division,
No.5, V.P.Rathnasamy Nadar Road,
Bibikulam, Madurai 625 002.

2.The Superintendent of CGST and Central Excise,
Madurai North Range,
No.5, V.P.Rathnasamy Nadar Road,
Bibikulam, Madurai 625 002.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records in Order in Original No. MAD-ST-ASC-138-2022 dated 12.09.2022 issued by the first respondent and quash the same as arbitrary, illegal and against principles of natural justice.

For Petitioner : Mr.S.Karunakar

For Respondents : Mr.N.Dilip Kumar

Standing Counsel



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ORDER

The above writ petition is filed for the issue of a Writ of Certiorari calling for the records in Original No.MAD-ST-ASC-138-2022 dated 12.09.2022 issued by the first respondent and quashing the same as arbitrary, illegal and against principles of natural justice.

2.The fulcrum of the challenge to the impugned order is the fact that the petitioner has not been put on notice at any point of time starting from the show cause notice and therefore, it is the case of the petitioner that the impugned order has to be set aside. That apart, it is also the case of the petitioner that the respondents have not complied with the provisions of Section 37C of the Central Excise Act, 1944, inasmuch as the summons, if not served, has to be served by affixing a copy thereof to some conspicuous part of the factory or warehouse or other place of business or usual place of residence of the person.

3.The respondents have submitted the entire records relating to the show cause notice and the subsequent orders, which clearly shows that the notices, which were sent to the registered office of the petitioner, has been returned with



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an endorsement no such door number, insufficient address, no such addressee etc.

However, it is also the case of the respondents that not only was the notice sent by registered post but also sent by e-mails, which has been delivered to the petitioner. Apart from the issue of service of notice, the petitioner has raised a plea of limitation, double taxation etc.

4.Heard the learned counsels appearing on either side.

5.The petitioner's contention is that he was residing at D.No.12/10 B2, Sultan Nagar 5th Cross Street, Bibikulam, Madurai 625 002 for the last 15 years. During the course of time, the address of the very same house has been changed as No.390(4), Kamarajar 1st Street, Bibikulam, Madurai 625 002. Since the Corporation records continued to show the Sultan Nagar address, the GST registration has also been obtained in the said address. Therefore, from the very statement of the petitioner, it is clear that the notices of the respondents have been sent to the address, which is registered with the GST authorities. The petitioner claims that it was only when he received the message on his mobile phone regarding the passing of the impugned order dated 12.09.2022 that he had been



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aware about the action initiated by the respondents.

6.The petitioner appears to have thereafter sent an undated letter received by the respondents on 21.06.2023, wherein he has stated that he has not received the show cause notice nor the order in original. However, the petitioner has not contended that the address, to which the letter has been sent is not the address, where he is residing. That apart, the letters have been returned only with the entries no such door number, insufficient address, no such addressee etc. The contention of the petitioner that he has not received the show cause notice has to be taken with the pinch of salt particularly when the petitioner has himself not stated that the address to which the notice was sent is not his address. Therefore, I see no reason to interfere with the impugned order and consequently, the Writ Petition stands dismissed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

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

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P.T.ASHA, J.

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