BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.08.2023

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THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P.(MD)No.21097 of 2023
and
W.M.P.(MD)No.17503 of 2023

M.Sathess Kumar ... Petitioner

vs.

The Deputy State Tax Officer-2,
Virudhunagar – II Assessment Circle,
Virudhunagar. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for records pertaining to the impugned order passed by the respondent in GSTIN – 33DSCPS5276P1ZZ/2022-2023, dated 25.07.2023 and to quash the same as illegal and gross violation of the principles of natural justice and further, to direct the respondent to re-do the assessment after considering the reply and providing sufficient opportunity for personal hearing to the petitioner as per the provisions of the GST Act.

For Petitioners	: Mr.A.Satheesh Murugan
For Respondent	: Mr.M.Ramesh Government Advocate

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O R D E R

This writ petition is filed for writ of Certiorarified Mandamus, to quash the impugned order dated 25.07.2023 passed by the respondent, as illegal and gross violation of the principles of natural justice and further, to direct the respondent to re-do the assessment after considering the reply and providing sufficient opportunity for personal hearing to the petitioner as per the provisions of the GST Act.

2. The contention of the petitioner is that he has submitted a reply on 24.07.2023. However, the respondent has passed the order on

25.07.2023, without considering the petitioner's reply.

3. On perusing the impugned order, it is seen that the respondent has recorded that the dealer did not file any reply so far. The said fact is incorrect. The petitioner has submitted a reply on 24.07.2023. However, the learned Government Advocate appearing for the respondent submitted that the petitioner was granted three personal hearings and the petitioner did not appear and has not submitted any reply on the said three days. Even though the petitioner has not appeared for the said three personal hearings, subsequently, he has filed a reply on 24.07.2023, before passing the impugned order dated 25.07.2023 and the respondents

are bound to consider the reply. Therefore, the assessment order is passed violating the principles of natural justice.

4. Moreover, it is the case of increase in GST from 12% to 18% for works contract executed for the government department and local bodies. Even though the petitioner is liable to pay GST, but ultimately it is the Government and the Local Bodies has to pay the GST and the petitioner is entitled to pay and recover from the government. Hence, the ultimate sufferer is the Government.

5. Therefore, the impugned order ought to be quashed. The

respondents are directed to grant one more personal hearing to the petitioner and the petitioner shall cooperate with the enquiry. Thereafter, the respondent shall pass a speaking order. The said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

6. With the above said observation, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

30.08.2023
(1/2)

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

To

The Deputy State Tax Officer-2,
Virudhunagar – II Assessment Circle,
Virudhunagar.

S.SRIMATHY, J

Tmg

W.P.(MD)No.21097 of 2023

30.08.2023
(1/2)