BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.09.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).Nos.23688 and 23689 of 2023
and
W.M.P.(MD)Nos.19862 and 19866 of 2023

M/s.V.R.Muthu and Brothers,
represented by its partner V.R.Sathyam,
No.443, Main Bazaar,
Virudhunagar-626 001. ... Petitioner in both cases

Vs.

The Assistant Commissioner (ST)-II,
Virudhunagar. ... Respondent in both cases

PRAYER in W.P.(MD).No.23688 of 2023: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a ***Writ of Certiorari,*** to call for the records of the respondent in his proceeding in GSTIN: 33AABFV1201B1Z6/2017-18, to quash the Audit Report in Form GST ADT-2, dated 21.09.2023, issued therein.

PRAYER in W.P.(MD).No.23689 of 2023 : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a ***Writ of Certiorari,*** to call for the records of the respondent in his proceeding in GSTIN: 33AABFV1201B1Z6/2017-18, to quash the Form GST DRC-01A notice, dated 22.09.2023, issued therein.

In both cases:

For Petitioner	:	Mr.R.L.Ramani Senior Counsel for Mr.S.Raja Jeya Chandra Paul
For Respondent	:	Mr.B.Baskaran Additional Government Pleader

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COMMON ORDER

This writ petition in W.P.(MD)No.23688 of 2023 is filed for writ of ***Certiorari,*** to quash the impugned proceeding of the respondent in GSTIN: 33AABFV1201B1Z6/2017-18 and to quash the Audit Report in Form GST ADT-2, dated 21.09.2023, issued therein.

2. The contention of the Learned Senior Counsel appearing for

petitioner is that based on the audit conducted on 11.05.2023, the respondent had uploaded the audit observations dated 25.08.2023 only on 14.09.2023 granting only five days time upto 19.09.2023. Even in the said five days two days were holidays due to Vinayagar Chathurthi. Therefore, he could not prefer any reply within the stipulated time of five days and sought extension of time, but without considering the said request the respondents have proceeded to upload the audit report on 21.09.2023 under Section 65 and demanded tax to the tune of Rs.3,67,48,517/- and issued notice on 22.09.2023, thereby reduced the entire audit exercise as an empty formality.

3. The respondents have not granted adequate time to submit the objections to the audit report and there is clear violation of principles of natural justice. Therefore, this Court is quashing the impugned order, dated 21.09.2023. The petitioner is directed to submit objections to the notice of audit observation, dated 25.08.2023 uploaded on 14.09.2023 within a period of two weeks from the date of receipt of a copy of this order. Thereafter, the

proceedings shall be proceeded further and the respondent is strictly directed to provide opportunity to the petitioner before passing any order.

4. With the above said observation, the writ petition W.P.(MD)No. 23688 of 2023 is allowed.

5. The respondent has passed the consequential Form GST DRC-01A, dated 22.09.2023. Since W.P.(MD) No.23688 of 2023 is allowed, consequentially the writ petition in W.P.(MD)No.23689 of 2023 is also allowed. No costs. Consequently, connected miscellaneous petitions are closed.

27.09.2023
(2/2)

NCC : Yes/No

Index : Yes / No
Internet : Yes/ No

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S.SRIMATHY, J.

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W.P.(MD).Nos.23688 and 23689 of 2023

27.09.2023
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