



W.P.No.2299 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED: 02.02.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.2299 of 2024
and W.M.P.Nos.2487, 2489 of 2024

M/s.Joshikaa Enterprises
Represented by its Proprietor
Mr.VijayaKumar Santhosh
45/66, Southwest Boag Road,
Thiyagaraya Nagar, Chennai,
Tamil Nadu 600 017.

... Petitioner

-VS-

Assistant Commissioner (ST),
Commercial Taxes Department,
No.46, III Floor Greenways Road,
Nandanam, Zone VI, Chennai Central
Tamil Nadu 600 028.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, calling for the records leading to the issuance of Order-in-original No.ZD330723106203Z dated 25.07.2023 with Form DRC-07 dated



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25.07.2023, by the respondent herein and quash the same, and direct to consider the matter afresh, after giving full and fair opportunity to the Petitioner to submit its reply and after affording opportunity of personal hearing to the Petitioner.

For Petitioner : Mr.T.C.Prakash

For Respondent : Mrs.E.Ranganayaki, AGP (T)

ORDER

The petitioner assails an assessment order dated 25.07.2023 on the ground of breach of principles of natural justice.

2. The petitioner is the Proprietor of Joshikaa Enterprises, which carries on business of trading in milk products and electrical products. By asserting that the GST practitioner engaged by the



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petitioner met with an accident, it is stated that the petitioner was unaware of the intimation, show cause notice and impugned order until the petitioner received a call with regard to amounts due and payable as per the assessment order.

3. Learned counsel for the petitioner relies on sub-section (4) of Section 75 and contends that a personal hearing should be provided before any adverse order is issued. By drawing reference to the reminder dated 14.07.2023, he contends that no personal hearing was offered to the petitioner.

4. Mrs.E.Ranganayaki, learned Additional Government Pleader, accepts notice on behalf of the respondent. She submits that an intimation and show cause notice were posted on the GST portal.

5. On examining the impugned assessment order, it is evident that such order was issued in view of the fact that the petitioner did



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not reply to the show cause notice. From the documents on record, it also appears that the petitioner was not provided a personal hearing, including by reminder dated 14.07.2023. Solely for the purposes of providing a personal hearing to the petitioner, impugned order calls for interference.

6. Consequently, impugned order dated 25.07.2023 is quashed and the matter is remanded for re-consideration. The petitioner is permitted to file a reply to the show cause notice within a maximum period of *ten days* from the date of receipt of a copy of this order. Upon receipt thereof, the assessing officer is directed to issue a fresh assessment order after providing a personal hearing to the petitioner. Such fresh assessment order shall be issued within a maximum period of *two months* from the date of receipt of the petitioner's reply.



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WEB COPY 7. W.P.No.2299 of 2024 is allowed on the above terms. No costs. Consequently, W.M.P.Nos.2487, 2489 of 2024 are closed.

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Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

To

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