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W.P.Nos.7698 & 7704 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2024

CORAM:

THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.Nos.7698 & 7704 of 2024 and
W.M.P.Nos.8615, 8617, 8621 & 8622 of 2024

In both WPs.

Mr.Santhosh Kumar Bhavesa Bothra,
Proprietor of M/s.Menus Kitchen,
No.137/1, Ettiness Road, Ooty,
The Nilgiris, Tamil Nadu:643 001.

...Petitioner

Vs.

The Commercial Tax Officer,
Uthagai (South) Assessment Circle,
Nilgiris, Uthagamandalam,
Tamil Nadu.

... Respondent

Prayer in W.P.No.7698 of 2024: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the impugned order in Ref.No.ZD331023092426N dated 16.10.2023 under Section 73 of the CGST/TNGST Act, 2017 for the assessment period 2017-2018 uploaded along with the summary of the order in DRC-07 from the files of the respondent herein and quash the same.



W.P.Nos.7698 & 7704 of 2024

Prayer in W.P.No.7704 of 2024: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the impugned order in Ref.No.ZD331023092007V dated 16.10.2023 under Section 73 of the CGST/TNGST Act, 2017 for the assessment period 2018-2019 uploaded along with the summary of the order in DRC-07 from the files of the respondent herein and quash the same.

In both WPs.

For Petitioner : Ms.Aparna Nandakumar

For Respondent : Mr.V.Prashanth Kiran, Govt. Adv. (T)

COMMON ORDER

Orders dated 16.10.2023 in respect of the assessment periods 2017-2018 and 2018-2019, respectively, are challenged in these writ petitions primarily on the ground of breach of principles of natural justice.

2. The petitioner is a registered person under applicable GST enactments. The petitioner received the respective intimation in Form GST DRC-01A on 27.01.2023. This was followed by the respective show cause notice dated 28.09.2023. Almost immediately after receipt of such show cause notice, by reply dated 29.09.2023, the petitioner requested for 30 days' time to reply on the ground that it was necessary to collect details from various sources. The impugned orders were issued on



W.P.Nos.7698 & 7704 of 2024

16.10.2023.

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3. Learned counsel for the petitioner referred to the reply dated 29.09.2023 and pointed out that the impugned orders were issued within about 15 days from the date of receipt of such reply in spite of the petitioner requesting for 30 days' time. She also pointed out that such reply was not referred to in the impugned order.

4. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondent. He submits that personal hearing opportunities were provided subsequent to the show cause notices. Therefore, he contends that interference is not warranted.

5. It is noticeable that the petitioner replied to the show cause notices on the very next day and requested for 30 days' time to reply. Without responding to the petitioner's reply, the impugned orders were issued within about 15 or 16 days from the date of receipt of the reply. The impugned orders do not refer to the petitioner's reply or set out any reasons for rejecting the reply. Since the petitioner was deprived of a reasonable opportunity to contest the tax demand, these impugned orders



W.P.Nos.7698 & 7704 of 2024

are unsustainable.

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6. Therefore, impugned orders dated 16.10.2023 are quashed and these matters are remanded for reconsideration. The petitioner is permitted to submit a reply to the respective show cause notice within a period of 15 days from the date of receipt of a copy of this order. Upon receipt thereof, the respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue fresh orders within two months from the date of receipt of the petitioner's reply.

7. These writ petitions are disposed of on the above terms. There will be no order as to costs. Consequently, connected miscellaneous petitions are closed.

22.03.2024

Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No
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SENTHILKUMAR RAMAMOORTHY,J.



W.P.Nos.7698 & 7704 of 2024

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To

The Commercial Tax Officer,
Uthagai (South) Assessment Circle,
Nilgiris, Uthagamandalam,
Tamil Nadu.

W.P.Nos.7698 & 7704 of 2024 and
W.M.P.Nos.8615, 8617, 8621 & 8622 of 2024

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