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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **02.04.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition Nos.8776, 8783 & 8788 of 2024
and W.M.P.Nos.9779, 9780, 9785,9786, 9789 & 9790 of 2024

Tvl. M.S. Enterprises,
Rep. by its Proprietor Mr. M. D. Saravanan,
No.12, Vella Street, Villivakkam,
Chennai – 49. ... Petitioner
(in all W.Ps.)

-vs-

The State Tax Officer,
Villivakkam Assessment Circle,
15&16, 100 feet Road, Malligai Avenue,
Kolathur, Chennai – 600 099. ... Respondent
(in all W.Ps.)

Prayer in W.P.No.8776 of 2024 : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records in the files of the respondent in Ref No. 33ARHPS2663K1ZG/2019-20 dated 15.12.2023 and quash the same being illegal, invalid, against the law and violated the principles of natural justice.

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Prayer in W.P.No.8783 of 2024 : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records in the files of the respondent in Ref No. 33ARHPS2663K1ZG/2020-21 dated 15.12.2023 and quash the same being illegal, invalid, against the law and violated the principles of natural justice.

Prayer in W.P.No.8788 of 2024 : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records in the files of the respondent in Ref No. 33ARHPS2663K1ZG/2021-22 dated 29.01.2024 and quash the same being illegal, invalid, against the law and violated the principles of natural justice.

In all W.P's:

For Petitioner : Mr. D. Vijayakumar

For Respondent : Mr. V. Prashanth Kiran,
Government Advocate (Tax)

ORDER

Assessment orders dated 15.12.2023 & 29.01.2024 are assailed on the ground that the petitioner was not provided a personal hearing.

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2. The petitioner is a registered person under applicable GST enactments. Upon receipt of the show cause notice dated 23.08.2023, the petitioner submitted a reply dated 06.12.2023. The impugned orders were issued thereafter on 15.12.2023 & 29.01.2024.

3. Learned counsel for the petitioner referred to the petitioner's reply dated 06.12.2023 and pointed out that the petitioner had responded to all eleven defects referred to in the show cause notice. He also pointed out that a personal hearing was expressly requested for by the said reply. By further submitting that such personal hearing was not provided, learned counsel submits that the impugned orders call for interference. He also points out that a personal hearing was held on 22.03.2024 in relation to the same assessment period and that the petitioner submitted several documents at such personal hearing.

4. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondent. He submits that the intimation was issued to the petitioner on 16.06.2023. Therefore, from the date of intimation, he submits

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that about six months' time was available to the petitioner to produce all relevant documents in respect of the eleven defects referred to both in the intimation and show cause notice. He further submits that the petitioner was offered a personal hearing on 14.09.2023 and again on 18.10.2023. Therefore, learned counsel submits that principles of natural justice were adhered to.

5. The petitioner has placed on record the reply dated 06.12.2023. By such reply, the petitioner has responded to all eleven defects mentioned in the show cause notice. On perusal of the petitioner's reply, it appears that the petitioner did not annex supporting documents. Undoubtedly, the petitioner's failure to annex relevant documents resulted in the rejection of the defence raised by the petitioner to the eleven defects. However, the failure of the respondent to provide a personal hearing in spite of an express request for a personal hearing vitiates the impugned orders.

6. Consequently, the impugned orders call for interference on account of breach of the statutory prescription in sub-section (4) of Section 75 of the Tamil Nadu Goods and Services Tax Act, 2017.

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7. For reasons set out above, the orders impugned herein are quashed and these matters are remanded for reconsideration. The petitioner is permitted to submit relevant documents in support of the reply to the show cause notice within 15 days from the date of receipt of a copy of this order. Upon receipt thereof, the respondent is directed to provide a personal hearing to the petitioner, and thereafter issue fresh orders within a period of two months from the date of receipt of documents from the petitioner.

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

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Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No

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SENTHILKUMAR RAMAMOORTHY,J

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To

The State Tax Officer,
Villivakkam Assessment Circle,
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Kolathur,
Chennai – 600 099.

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