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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.Nos.20941 & 20942 of 2024 &
W.M.P.Nos.22883 to 22890 of 2024

T.Balasubramanian ... Petitioner
[in both W.Ps]

Vs.

1.The Joint Commissioner (ST),
North Division,
No:32, Elephant Gate Bridge Road,
(Off Wall Tax Road)
Vepery, Chennai - 600 003.

2.The Office of the Assistant Commissioner (ST)
Washermenpet Assessment Circle,
Room No.206, 2nd Floor,
Integrated Building for Commercial Taxes,
No:32, Elephant Gate Bridge Road
(Off Wall Tax Road)
Vepery, Chennai - 600 003. ... Respondents
[in both W.Ps]

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the entire records of the respondent passed in GSTIN:33AAUPB0065C1Z8/2017-18 dated 26.12.2023 and 33AAUPB0065C1Z8/2018-19 dated 23.01.2024 passed by the 2nd respondent for the financial years 2017-2018 and 2018-19 *vide* Demand ID.Nos.ZD3312232054141 and ZD330124107961S and to quash the assessment orders passed therein and consequently direct the

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respondent herein to pass an order afresh after affording opportunity to the petitioner to explain their case and to produce connected and supporting document in support of the case respectively.

For Petitioner : Mr.H.Manojin
[in both W.Ps]
For Respondents : Mr.K.Vasanthamala
[in both W.Ps] Government Advocate (Taxes)

COMMON ORDER

These Writ Petitions have been filed by the petitioner to quash the impugned orders dated 26.12.2023 and 23.01.2024 passed by the second respondent.

2. Mrs.K.Vasanthamala, learned Government Advocate (Taxes) takes notice on behalf of the respondents.

3. By consent of the parties, the main Writ Petitions are taken up for disposal at the admission stage itself.

4. The learned counsel for the petitioner would submit that the second respondent has appropriated more than 10% of the tax demand in respect of the assessment period. However, the second respondent passed the impugned orders, demanding the payment of GST for the assessment years 2017-18 and 2018-19, which are in violation of the principles of natural justice.

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5. On the other hand, the learned Government Advocate (Taxes) would submit that the second respondent issued the show cause notices to the petitioner, but they did not file reply. Therefore, the impugned orders came to be passed by the second respondent. She would further submit that these Writ Petitions may be disposed of by giving appropriate direction to the respondents.

6. Heard the learned counsel for the petitioner and the learned Government Advocate (Taxes) for the respondents and also perused the materials available on record.

7. In the present case, it appears that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned orders. Hence, this Court is of the view that the impugned orders were passed in violation of principles of natural justice and it is just and necessary to provide an opportunity to the petitioner to establish their case on merits. In such view of the matter, this Court is inclined to set aside the impugned orders dated 26.12.2023 and 23.01.2024 passed by the second respondent. Accordingly, this Court passes the following order:-

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(i) The orders impugned herein are set aside and the matters are remanded to the second respondent for fresh consideration.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks thereafter.

(iii) On filing of such reply/objection by the petitioner, the second respondent shall consider the same and issue a 14 days clear notice by fixing the date of personal hearing to the petitioner and thereafter, pass appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.

8. Accordingly, the Writ Petitions are disposed of. There is no order as to costs. Consequently, the connected Miscellaneous Petitions are closed.

09.08.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No

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