IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2024

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THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P.Nos.22317 and 22321 of 2024
and
W.M.P Nos.24298, 24300, 24305 and 24306 of 2024

Murali Babu,
S/o.V.Balakrishnan,
No.31/7, Golden Avenue Thirupathi Nagar Extn.,
Kolathur, Chennai, Tamil Nadu - 600 099.
GSTIN: 33AFBPM2153G1ZX ... Petitioner in both W.Ps.

Vs.

The Deputy Commercial Tax Officer,
Surapattu Assessment Circle,
Integrated Commercial Taxes Office Complex,
Room No.318, Elephant Gate Bridge Road,
Chennai. ... Respondent in both W.Ps.

PRAYER in W.P.No.22317 of 2024: This Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the respondent in order to Ref.No.ZD331223072717G, dated 12.12.2023 for the Financial Year 2017-2018, quash the same and direct the respondent to provide an opportunities to submit necessary documents for the purpose of adjudicating the issue in accordance with law.

PRAYER in W.P.No.22321 of 2024: This Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the respondent in order to Ref.No.ZD330124163680Q, dated 31.01.2024 for the Financial Year 2018-2019, quash the same and direct the respondent to provide an opportunities to submit necessary documents for the purpose of adjudicating the issue in accordance with law.

For Petitioner in both W.Ps.	:	Mr.Swarnavel
For Respondent in both W.Ps.	:	Mrs.Amirtha Poongodi Dinakaran Government Advocate (T)

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COMMON ORDER

The present Writ Petitions are filed for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the respondent in order to Ref.No.ZD331223072717G, dated 12.12.2023 for the Financial Year 2017-2018, and Ref.No.ZD330124163680Q, dated 31.01.2024 for the Financial Year 2018-2019, respectively, quash the same and direct the respondent to provide an opportunities to submit necessary documents for the purpose of adjudicating the issue in accordance with law.

2. The learned counsel for the petitioner submits that due to various misconceptions during initial period of GST and the Corporation was also continue to deduct as usual, the petitioner did not find any anomaly in the procedure followed. The respondent while comparing the GST returns with that of Form-26AS of Income Tax Department found out the discrepancy and issued a show cause notices dated 14.08.2023. However, no physical copy was served on the petitioner and without providing any personal hearing opportunity, the respondent has passed the impugned order.

3. He further submits that the petitioner came to know about the proceedings only when the respondent issued a letter to petitioner's banker to freeze their bank account. Now the entire tax liability is paid and the petitioner is fully entitled for complete waiver of interest and penalty as recommended by 53rd GST Council. Hence, he prays to set aside the impugned order and remand the matter to the respondent for reconsideration.

4. The learned Government Advocate for the respondents would submit the personal hearing was offered to tax payer to appear on 08.12.2023, but, the tax payer neither appeared nor filed any reply. However, he would fairly submit that if any order is passed by this Court, the same will be complied with

by the respondents.

5. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondent and perused the materials placed before this Court.

6. Considering the facts that the notices and orders were uploaded in the portal under the Additional Notices Column and therefore, the petitioner had no occasion to view the said column and the impugned order was passed without affording an opportunity to the petitioner to establish his case before the authorities concerned, which is clear violation of principles of natural justice and the entire tax demand was paid by the petitioner, this Court is inclined to set aside the impugned orders dated 12.12.2023 and 31.01.2024 While setting aside the impugned orders, this Court remits the matters back to the respondent for reconsideration. The petitioner is directed to file a reply within a period of two (2) weeks. After receipt of the reply, the authorities concerned shall fix a date for personal hearing by sending a physical notice to the petitioner providing 14 days time and thereafter, pass orders on merits and in accordance with law.

With the above directions, these Writ Petitions are disposed of. There shall be no order as to costs. Consequently, the connected Miscellaneous Petitions are closed.

13.08.2024

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To

The Deputy Commercial Tax Officer,
Surapattu Assessment Circle,
Integrated Commercial Taxes Office Complex,
Room No.318, Elephant Gate Bridge Road,
Chennai.

KRISHNAN RAMASAMY, J.
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