



W.P.No.22314 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2024

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THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P.No.22314 of 2024

and

W.M.P Nos.24293 and 24296 of 2024

M/s.Sri Murugan Traders,
Represented by its Managing Partner K.S.Madheswaran,
127/190, Salem Main Road,
Subramaniya Lodge Building,
Uthangarai, Krishnagiri - 635 207.

... Petitioner

Vs.

The Commercial Tax Officer,
Harur Circle,
Dharmapuri, Hosur,
Tamil Nadu.

... Respondent

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorari, to call for the records in Summary Order in Form GST DRC-07, dated 23.04.2024 in Ref.No.ZD330424177038F passed by the respondent and quash the orders as arbitrary and illegal.



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For Petitioner : Mr.Joseph Prabakar

For Respondent : Mr.G.Nanmaran
Special Government Pleader (T)

ORDER

The present Writ Petition is filed for the issuance of a Writ of Certiorari, to call for the records in Summary Order in Form GST DRC-07, dated 23.04.2024 in Ref.No.ZD330424177038F passed by the respondent and quash the orders as arbitrary and illegal.

2. The learned counsel for the petitioner submits that the petitioner is a dealer in SIM Cards for BSNL and the respondent issued Form GST DRC-01 dated 28.12.2023 for the year 2018-19 in which the respondent raised two issues. The petitioner filed a detailed reply dated 10.04.2024 to the show cause notice and the same was uploaded in the portal on 12.04.2024 vide Form GST DRC-06. Thereafter, the respondent passed the impugned order dated 23.04.2024, wherein it is stated that the petitioner did not file nay reply and thereby confirmed the demand. The respondent ought to have considered the submissions made by the petitioner in their reply dated 10.04.2024 uploaded on



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12.04.2024 and if the reply had to be considered, the objections would have been dropped. Therefore, non-consideration of the reply filed by the petitioner has resulted in the impugned order with the demand on two counts. Further, the impugned order has been passed in violation of principles of natural justice since opportunity of personal hearing contemplated under Section 75(4) of the CGST Act, was not granted to the petitioner and the same is not sustainable in law. Hence, the impugned order is liable to be set aside.

3. By referring the impugned order, the learned Special Government Pleader (T) appearing for the respondent would submit that the petitioner has filed their reply dated 10.04.2024, but, has not replied for the two defects mentioned by the respondent. However, he would submit that if any order is passed by this Court, the same will be complied with by the respondent.

4. Heard the learned counsel appearing for the petitioner as well as the learned Special Government Pleader appearing for the respondent and perused the materials placed before this Court.



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5. In the present case, a detailed reply was uploaded by the petitioner in the portal on 12.04.2024 and the impugned order came to be passed on 23.04.2024. On perusal of the impugned order, it is mentioned that the dealer has not filed reply for the defects and hence, the defect is confirmed. Without taking into consideration the detailed reply of the petitioner dated 12.04.2024 and without application of mind, the respondent has passed a non-speaking order, which is clear violation of principles of natural justice and the same is not sustainable in law. Hence, this Court is inclined to set aside the impugned order dated 23.04.2024 in Ref.No.ZD330424177038F passed by the respondent and hence, the same is set aside. While setting aside the impugned order, the Court remits the matter back to the respondent for reconsideration. Therefore, the respondent is directed to consider the reply filed by the petitioner dated 12.04.2024 and pass a speaking order on merits and in accordance with law.



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

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To

The Commercial Tax Officer,
Harur Circle,
Dharmapuri, Hosur,
Tamil Nadu.



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KRISHNAN RAMASAMY, J.

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