IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2024

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THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P.Nos.23106, 23109, 23111, 23117 & 23120 of 2024
and W.M.P.Nos.25225, 25226, 25229, 25238, 25231,
25232, 25237, 25239, 25245 and 25246 of 2024

Kamatchi Agencies (Defunct)
Rep. by its Proprietor- Guruswamy Kasirajan,
13, Kanni Kovil Street,
Tiruttani, Tiruvallur-631 209. ... Petitioner in all W.Ps

Vs.

The Deputy Commercial Tax Officer,
Office of the State Tax Officer,
Tiruttani, Tiruvallur-631 209. ... Respondent in all W.Ps

PRAYER in W.P.No.23106 of 2024: 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 on the file of the respondent in its impugned proceedings vide form GST ASMT-13 bearing a Ref.No.ZD3312230487689 dated 08.12.2023 along with consequential order in form GST DRC-07 bearing a Reg.No.ZD3312230487689 dated 08.12.2023 for the tax period September, 2023, quash the same as illegal, arbitrary and is violative of principles of natural justice.

PRAYER in W.P.No.23109 of 2024: 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 on the file of the respondent in its impugned proceedings vide form GST ASMT-13 bearing a Ref.No.ZD330224132985F dated 22.02.2024 along with consequential order in form GST DRC-07 bearing a Reg.No.ZD330224132985F dated 22.02.2024 for the tax period August, 2023, quash the same as illegal, arbitrary and is violative of principles of natural justice.

PRAYER in W.P.No.23111 of 2024: 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 on the file of the respondent in its impugned proceedings vide form GST ASMT-13 bearing a Ref.No.ZD330224133686I dated 22.02.2024 along with consequential order in form GST DRC-07 bearing a Reg.No.ZD330224133686I dated 22.02.2024 for the tax period October, 2023, quash the same as illegal, arbitrary and is violative of principles of natural justice.

PRAYER in W.P.No.23117 of 2024: 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 on the file of the respondent in its impugned proceedings vide form GST ASMT-13 bearing a Ref.No.ZD330224133796F dated 22.02.2024 along with consequential order in Form GST DRC-07 bearing a Reg.No.ZD330224133796F dated 22.02.2024 for the tax period November, 2023, quash the same as illegal, arbitrary and is violative of principles of natural justice.

PRAYER in W.P.No.23120 of 2024: 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 on the file of the respondent in its impugned proceedings vide form GST ASMT-13 bearing a Ref.No.ZD331123117120D dated 20.11.2023 along with consequential order in Form GST DRC-07 bearing a Reg.No.ZD331123117120D dated 20.11.2023 for the tax period July, 2023, quash the same as illegal, arbitrary and is violative of principles of natural justice.

For Petitioner
in all W.Ps : Mr.S.Rajendran

For Respondent
in all W.Ps : Mrs.K.Vasanthamala,
Government Advocate (T)

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COMMON ORDER

These Writ Petitions have been filed challenging the impugned order passed by the respondent in ASMT-13 along with attachment.

2. The learned counsel for the petitioner submits that the petitioner was served with Section 46 - GSTR - 3A Notice dated 28.12.2023 by the respondent for non-filing of GSTR - 3B returns for the month of November,

2023. In response to the same, the petitioner could not file any reply as the petitioner failed to check the web portal as he had stopped doing business. He further submits that the respondent had passed ASMT-13, dated 08.12.2023 and determined a liability based on the highest GSTR-3B value of previous financial year and determined the turnover and tax liability. The respondent had consequently issued DRC-07 on 08.12.2023 demanding the tax determined in ASMT-13.

3. He further submits that the respondent had erred in passing the impugned order by adopting highest turnover reported by the petitioner in GSTR -3B in the previous year as the turnover of dispute month. Hence, the impugned order passed by the respondent is liable to be set aside.

4. The learned Government Advocate appearing for the respondent would submit that subject to payment of 10% of the tax demand, the impugned order may be set aside and remand the same to the respondent for reconsideration.

5. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondent and perused the

materials placed before this Court.

6. Considering the facts that the respondent, without affording an opportunity to the petitioner, has passed the impugned orders, which is in violation of principles of natural justice, this Court is inclined to set aside the impugned orders dated 08.12.2023 passed by the respondent and accordingly, the same are set aside on condition that the petitioner shall deposit 10% of the tax demand within a period of four (4) weeks from the date of receipt of a copy of this order. On production of proof of the deposit, the attachment order shall stand raised. While setting aside the impugned orders as well as the attachment orders, this Court is inclined to remand the matters to the respondent for consideration and accordingly, the matters are remitted back to the respondent for considering the request of the petitioner. The petitioner is directed to file a reply within a period of two (2) weeks from the date of receipt of a copy of this order and the respondent is directed to afford an opportunity of personal hearing by providing 14 days time and thereafter, proceed with the matter in accordance with law.

KRISHNAN RAMASAMY, J.

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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.

09.08.2024

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To

The Deputy Commercial Tax Officer,
Office of the State Tax Officer,
Tiruttani, Tiruvallur-631 209.

W.P.Nos.23106, 23109, 23111, 23117 & 23120 of 2024 and W.M.P.Nos.25225, 25226, 25229, 25238, 25231, 25232, 25237, 25239, 25245 and 25246 of 2024