IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2024

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THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P.Nos.25246 and 25248 of 2024
and
W.M.P.Nos.27573, 27576, 27578 and 27579 of 2024

Tvl. S.Gopinathan Contractor,
Represented by its Proprietor,
Subramani Gopinathan,
23/14, Raji Patti, Katpadi Road,
Gudiyatham, Vellore,
Tamil Nadu - 632 602. ... Petitioner in both W.Ps.

Vs.

The Deputy State Tax Officer,
Gudiyatham (East) Assessment Circle,
Vellore, Tamil Nadu. ... Respondent in both W.Ps.

PRAYER in W.P.No.25246 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 of the respondent's order dated 03.04.2024 bearing GSTIN: 33BRKPG2325L1ZV/2018-2019 and quash the same.

PRAYER in W.P.No.25248 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 of the respondent's order dated 26.03.2024 bearing GSTIN:

33BRKPG2325L1ZV/2019-2020 and quash the same.

For Petitioner in both W.Ps. : Mr.S.Srisankar

For Respondents in both W.Ps. : Ms.Amirta Poonkodi Dinakaran Government Advocate (T)

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COMMON ORDER

The present Writ Petitions have been filed for the issuance of a Writ of Certiorari, to call for the records of the respondent's orders dated 03.04.2024 bearing GSTIN: 33BRKPG2325L1ZV/2018-2019 and 26.03.2024 33BRKPG2325L1ZV/2019-2020, respectively and quash the same.

2. The learned counsel for the petitioner submits that the impugned orders were passed without providing opportunity to the petitioner. Since the respondent sent all the correspondences only through portal and that too in "Additional Notices" and that is why the petitioner was not able to defend the case. Even the personal hearing notice was also issued in the same portal, the petitioner has not appeared for the same and has also not filed reply. Therefore, the order passed by the respondent is in violation of principles of natural justice. He further submits that the petitioner is ready to deposit 10% of the

disputed tax demand and requested this Court to set aside the impugned orders and remand the matter to the respondent for fresh consideration.

3. The learned Additional Government Pleader for the respondent would submit that though the notices were uploaded by the respondent in the GST web portal, the petitioner had failed to appear before the respondent for personal hearing. 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 for the petitioner and the learned Government Advocate (T) appearing for the respondent and perused the materials available on record.

5. Considering the facts that all the notices were uploaded in the portal under the "Additional Notices/Orders" and therefore, the petitioner had no occasion to view the said column and the impugned orders were 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, this Court is of the view that no order can be passed without providing sufficient opportunities to the petitioner. Hence, the impugned orders are liable

to be set aside.

6. Accordingly, the impugned orders passed by the respondent dated 26.03.2024 and 03.04.2024 are set aside on condition that the petitioner shall deposit 10% of the disputed tax demand within a period of four (4) weeks from the date of receipt of a copy of this order. While setting aside the impugned orders, this Court is inclined to remand the matters to the respondent for fresh consideration and accordingly, the matter is remitted back to the respondent. The petitioner is directed to file his reply within a period of two (2) weeks and on receipt of the reply, the respondent 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.

29.08.2024

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To

The Deputy State Tax Officer,
Gudiyatham (East) Assessment Circle,
Vellore, Tamil Nadu.

KRISHNAN RAMASAMY, J.

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