



W.P.(MD)No.5291 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.09.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.(MD)No.5291 of 2024

and

W.M.P.(MD)Nos.5075 and 5076 of 2024

M/s.Shasthiri Senthamarai Kannan

... Petitioner

Vs.

The Deputy Commercial Tax Officer (ST),
Karur-I Assessment Circle,
Commercial Taxes Buildings,
Karur.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records on the file of the respondent in GSTIN: 33BSIPS6621N1Z8/2018-19 dated 24.07.2023 and to quash the same as illegal, arbitrary, wholly without jurisdiction and in violation of the Section 75(4) of the TNGST Act 2017 and direct the respondent to issue notice to the petitioner then pass an assessment order afresh after affording an opportunity of personal hearing as contemplated under Section 75(4) of the TNGST Act, 2017 within such time as may be stipulated by this Court.



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For Petitioner : Mr.N.Sudalaimuthu

For Respondent : Mr.R.Suresh Kumar
Additional Government Pleader

ORDER

The present Writ Petition is filed challenging the impugned order dated 24.07.2023 on the ground that order is passed in violation of principles of natural justice.

2. It is submitted by the learned counsel for the petitioner that the petitioner had provided man power supply to various private entities in and around Karur District and the petitioner was a registered tax payer under GST Act. It is stated that the petitioner had closed his business since 2021 and GSTIN registration was also cancelled for non filing of returns. The petitioner was served with notice in Form ASMT 10 dated 21.12.2021 for the period 2018-2019, followed by show cause notice in Form GST DRC- 01 under Section 73 of the Act, wherein it was stated that the personal hearing shall be on the date, time and venue mentioned in the table below. However, the table with regard to date, time and venue of personal hearing states "Not Applicable". The relevant portion of the notice is extracted hereunder:



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Sr. No.	Description	Particulars
1.	<i>Section under which show cause notice/statement is issued</i>	73
2.	<i>Date by which reply has to be submitted</i>	29/06/2023
3.	<i>Date of personal hearing</i>	NA
4.	<i>Time of personal hearing</i>	NA
5.	<i>Venue where personal hearing will be held</i>	NA

3. Thereafter, the order of assessment was made on 24.07.2023. The petitioner has been served with the summary of the order, however he has not been served with the order of assessment. It was submitted by the learned counsel for the petitioner that failure to grant personal hearing vitiates the entire proceedings. More so, the respondent has only passed the summary order without attaching any order of assessment.

4. It was submitted by the learned Additional Government Pleader for the respondent that the respondent would re-do the assessment after affording the petitioner a reasonable opportunity of hearing. It was further submitted that the petitioner may appear before the respondent on 26.09.2024, along with the reply and the materials in support of his case and the same is acceded to by the learned counsel for the petitioner.



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5. In view thereof, the petitioner may appear before the respondent on 26.09.2024, along with the reply and the materials in support of his contention.

If any objections / documents are filed, the respondent shall consider the same and grant an opportunity of personal hearing to the petitioner and thereafter pass appropriate orders in accordance with law, within a period of four weeks therefrom. If the petitioner does not appear on the above date, the impugned order stand revived.

6. Accordingly, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

05.09.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr

To:

The Deputy Commercial Tax Officer (ST),
Karur-I Assessment Circle,
Commercial Taxes Buildings,
Karur.

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MOHAMMED SHAFFIQ, J.

Nsr

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