BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **24.06.2024**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.13480 of 2024
and
W.M.P.(MD) Nos.11895 & 11896 of 2024

B.Mohideen Kamal Batcha ... Petitioner

Vs.

The Deputy State Tax Officer (ST),
West Veli Street Circle,
Madurai. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for the records pertaining to the impugned order passed by the respondent in DRC 07 for GSTIN:33AISPM0239K1Z1, dated 03.04.2023, quash the same as illegal, arbitrary and violative of principles of natural justice.

For petitioner : Mr.R.Krishnamoorthy

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

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ORDER

This Writ Petition is disposed of at the time of admission after hearing the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent.

2. The petitioner has challenged the impugned order dated 03.04.2023 bearing reference GSTIN:33AISPM0239K1Z1 for the assessment year 2018-19. The petitioner has replied to the notice in ASMT 10 dated 20.07.2022 *vide* reply dated 19.12.2022. Similarly, the petitioner has also replied to the notices in GST DRC 01 dated 14.12.2022 *vide* reply dated 16.01.2023.

3. Thereafter, the petitioner was issued with three reminders for personal hearing on 25.01.2023, 10.02.2023 and 16.03.2023 and personal hearing was also proposed to be held on 01.02.2023 and 20.03.2023.

4. The learned counsel for the petitioner would submit that though three notices were issued, the second notice was issued without mentioning time or date for personal hearing and therefore, there has been manifest violation under

the respective GST enactments.

5. That apart, it is submitted that the same subject has been explained by this Court in the case of ***Shakthi Steel Trading vs. Assistant Commissioner (ST), Vandavasi in W.P.(MD)No.4122 of 2022 dated 29.01.2024***.

6. It is submitted that the respondent has recovered almost Rs.38 lakhs from and out of the total demand of Rs.35,77,846/- (1788923x2) towards SGST and CGST.

7. The learned counsel for the petitioner would submit that the petitioner may be given one opportunity to reply the case afresh in personal hearing, before the respondent as the petitioner has a case on merits.

8. The learned Additional Government Pleader for the respondent would submit that this Writ Petition is devoid of merits and the petitioner has an alternative remedy before the Appellate Commissioner under Section 107 of the respective GST enactments.

9. Having considered the arguments advanced by the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent and considering the fact that Rs.38 lakhs appears to have been recovered from and out of the petitioner's account, the Court is inclined to set aside the impugned order and remit back the case to the respondent to pass fresh orders on merits and in accordance with law within a period of 60 days from the date of receipt of a copy of this order.

10. The impugned order, which stands quashed, shall be treated as addendum to the show cause notice that preceded the impugned order.

11. The petitioner is given liberty to give additional representation, if any. Needless to state, the petitioner shall appear positively before the respondent on 15.07.2024.

12. It is expected that the final personal hearing will be held on or before 29.07.2024 and final orders will be passed on or before 30.08.2024.

This Writ Petition is disposed of, with above directions. No costs. Consequently, connected miscellaneous petitions are closed.

24.06.2024

Index : Yes / No
Internet : Yes / No
apd

To

The Deputy State Tax Officer (ST),
West Veli Street Circle,
Madurai.

C.SARAVANAN, J.

apd

W.P.(MD) No.13480 of 2024

24.06.2024