



W.P.(MD) No.24026 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

**W.P.(MD) No.24026 of 2023
and
W.M.P.(MD)Nos.20175 & 20177 of 2023**

Tvl. R.Thangaraj,
Represented by its Proprietor Thangaraj Ramasamy Nadar ... Petitioner

Vs.

1.The Deputy Commissioner (ST),
GST Appeal, Madurai & Tirunelveli,
Commercial Taxes Buildings,
Palayamkottai,
Tirunelveli.

2.The Assistant Commissioner (State Tax),
Tuticorin-2,
Commercial Taxes Building,
Tuticorin.

3.The Assistant Commissioner (State Tax),
Tuticorin-1,
Commercial Taxes Building,
Tuticorin.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the impugned proceedings passed by the 2nd respondent in his proceedings in order No. GSTIN. 33AGDPR8077R1Z1 (Tax Period 2018-19) dated 12.08.2022 and the Consequential impugned proceedings passed by the 3rd respondent in Form GST DRC-07 in Reference No. ZD330822008411X dated 12.08.2022 and quash the same as the same is illegal and passed by grossly violating the Principles of Natural Justice and also passed by violating the statutory provisions by without considering the online objection letter dated 28.04.2022 filed by him and further direct the respondents to redo the assessment afresh after providing an opportunity of personal hearing.

For petitioner : Mr.A.Satheesh Murugan
For respondents : Mr.R.Suresh Kumar
Additional Government Pleader

ORDER

Heard learned counsel for the petitioner and learned Additional Government Pleader for the respondents.

2. The petitioner has challenged the impugned order dated 12.08.2023 passed by the second respondent for the assessment year 2018-19 bearing



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reference in GSTIN. 33AGDPR8077R1Z1.

3. By the impugned order, the demand, that was proposed in DRC 01 dated 29.04.2024, has been confirmed. The impugned order records that the petitioner has neither replied to the show cause notice nor has appeared during personal hearings.

4. It is noticed that the petitioner had indeed filed the return only in GST DRC 01A part B and in GST DRC 03 on 28.04.2022, a copy of which, is enclosed along with the typed set of papers. It is evident that it has not been considered by the second respondent.

5. It is noticed that only after the impugned order was passed, the petitioner sent a representation dated 08.09.2023 to the first respondent.

6. Considering the fact that the petitioner has opportunity to request the second respondent to exercise the discretion under Section 161 of the GST Act, 2017, the Court is of the view that the impugned order is unsustainable in the



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manner, in which, it has been passed.

7. Under these circumstances, the impugned order is quashed and the case is remitted back to the second respondent to pass fresh orders on merits and in accordance with law.

8. The impugned order, which stand quashed, shall be treated as addendum to the show cause notice in DRC 01 dated 29.04.2024.

9. The petitioner shall file consolidated reply within a period of 30 days from the date of receipt of a copy of this order. The second respondent shall pass fresh orders on merits and in accordance with law as expeditiously as possible preferably within a period of three months thereafter. Needless to state, before passing the orders, the petitioner shall also be heard.

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

Index : Yes / No
Internet : Yes / No
apd

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C.SARAVANAN, J.

apd

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