BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD) No.28798 to 28803 of 2024
and
W.M.P.(MD) Nos.24398, 24399, 24402,
24403, 24404, 24405, 24410, 24411, 24442,
24443, 24420 and 24421 of 2024

M/s.Tvl.Bharath Transports,
Rep., by its Authorised Signatory,
M.I.Mohamed Ismail,
S/o.S.M.Mohamed Ibrahim,
10A, Abdul Gaboor Street,
Kajanagar, Tiruchirappalli-620 020. .. Petitioner in all W.Ps.

Vs.

1.The State Tax Officer-2 (Inspection),
Office of the Joint Commissioner (ST) (Int),
Tiruchirappali Division, Trichy.

2.The Commercial Tax Officer,
Office of the Joint Commissioner (ST) (Int),
Tiruchirappali Division, Trichy. .. Respondents in all W.Ps.

Prayer in W.P.(MD) No.28798 of 2024: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified

Mandamus, to call for the records of the impugned order passed by the first respondent in GSTIN 33AAKFB3827A2ZY/2017-18, dated 09.08.2024, consequential impugned Form GST DRC-07 in Reference No.ZD3308240774083, dated 09.08.2024 issued by the second respondent and to quash the same as arbitrary and direct the respondents to reconsider the petitioner's reply dated 22.06.2024.

Prayer in W.P.(MD) No.28799 of 2024: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records of the impugned order passed by the first respondent in GSTIN 33AAKFB3827A2ZY/2018-19, dated 09.08.2024, consequential impugned Form GST DRC-07 in Reference No.ZD330824077480B, dated 09.08.2024 issued by the second respondent and to quash the same as arbitrary and direct the respondents to reconsider the petitioner's reply dated 22.06.2024.

Prayer in W.P.(MD) No.28800 of 2024: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records of the impugned order passed by the first respondent in GSTIN 33AAKFB3827A2ZY/2019-20, dated 09.08.2024, consequential impugned Form GST DRC-07 in Reference No.ZD3308240774380, dated 09.08.2024 issued by the second respondent and to quash the same as arbitrary and direct the respondents to reconsider the petitioner's reply dated 22.06.2024.

Prayer in W.P.(MD) No.28801 of 2024: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records of the impugned order passed by the first respondent in GSTIN 33AAKFB3827A2ZY/2020-21, dated 09.08.2024, consequential impugned Form GST DRC-07 in Reference No.ZD3308240773556, dated 09.08.2024 issued by the second respondent and to quash the same as arbitrary and direct the respondents to reconsider the petitioner's reply dated 22.06.2024.

Prayer in W.P.(MD) No.28802 of 2024: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records of the impugned order passed by the first respondent in GSTIN 33AAKFB3827A2ZY/2021-22, dated 09.08.2024, consequential impugned Form GST DRC-07 in Reference No.ZD330824077271E, dated 09.08.2024 issued by the second respondent and to quash the same as arbitrary and direct the respondents to reconsider the petitioner's reply dated 22.06.2024.

Prayer in W.P.(MD) No.28803 of 2024: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records of the impugned order passed by the first respondent in GSTIN 33AAKFB3827A2ZY/2022-23, dated 09.08.2024, consequential impugned Form GST DRC-07 in Reference No.ZD330824077162F, dated 09.08.2024 issued by the second respondent and to quash the same as arbitrary and direct the respondents to reconsider the petitioner's reply dated 22.06.2024.

In all W.Ps.

For Petitioner	:	Mr.N.Bharathi
For Respondents	:	Mr.R.Suresh Kumar Additional Government Pleader

COMMON ORDER

The primordial contention of the petitioner is that pursuant to the Form GST DRC-01 notice dated 21.05.2024, the petitioner had filed his reply in the portal and thereafter, hearings were given on 02.07.2024 and 12.07.2024. The petitioner had filed a detailed reply on 02.07.2024 manually and on 12.07.2024, had sought further time for producing documents and for having the hearing some other date. However, without considering the same, the order has been passed without giving the mandatory third hearing to the petitioner. Hence, he would seek interference of this Court and would also submit that if the matter is remitted back and a date is fixed, on that date, the petitioner would appear and produce all the documents to substantiate his claim.

2. On the other hand, the learned Additional Government Pleader appearing for the respondents would submit that the three hearings contemplated is not mandatory and is directory. He would submit that in spite of personal hearing granted to the petitioner, the petitioner had not appeared and produced documents, only based upon which the order has been passed. Hence, he would submit that the only available remedy to the petitioner is to approach the appropriate authority.

3. I have considered the rival contentions made by the learned counsel on either side.

4. Even as per the impugned order, for the hearing notice dated 04.07.2024, fixing the hearing on 12.07.2024, a reply had been manually submitted by the petitioner on 10.07.2024. He had sought for further time to present his case in person and also for production of records. But however, without granting the third hearing, the first respondent had proceeded to pass the order impugned herein. The provision mandates a maximum of three personal hearings to the assessee pursuant to the

DRC-01 notice. When the petitioner has sought for the third hearing, it is incumbent upon the respondent to give the final opportunity.

5. In the present case, that has not been done. Hence, the impugned order is set aside and the matter is remitted back to the first respondent with a direction to the first respondent to grant an opportunity of personal hearing to the petitioner. The petitioner undertakes to appear before the first respondent on 24.12.2024, on which date, the first respondent shall hear the petitioner and pass appropriate orders on merits and in accordance with law subject to the documents produced by the petitioner.

6. With the aforesaid direction, these Writ Petitions stand disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

05.12.2024

NCC : Yes/No
Index : Yes/No
Note: Issue order copy by 05.12.2024
abr

To

1.The State Tax Officer-2 (Inspection),
Office of the Joint Commissioner (ST) (Int),
Tiruchirappali Division, Trichy.

2.The Commercial Tax Officer,
Office of the Joint Commissioner (ST) (Int),
Tiruchirappali Division, Trichy.

K.KUMARESH BABU, J.

abr

W.P.(MD) Nos.28798 to 28803 of 2024

Dated: 05.12.2024