

W.P.(MD)No.4417 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 28.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.4417 of 2024

and

W.M.P.(MD)No.4246 of 2024

M/s.Greenstar Fertilizers Limited,
Represented by its Chief Financial Officer,
J.Ravishankar,
S/o.Jagannathan,
No.35, Spic Nagar,
Muthaiyapuram Post,
Tuticorin – 628 005.

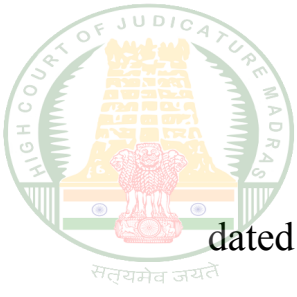
... Petitioner

versus

The Joint Commissioner,
Office of the Additional Commissioner
of GST and Central Excise,
No.7, Tractor Road,
N.G.O. "A" Colony,
Tirunelveli – 627 007.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India,
seeking for the issuance of Writ of Certiorari, to call for the records of
the impugned exparte order, Order-in-Original No.15/JC/GST/2023



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dated 20.12.2023 with DIN-20231259X0000000BA87 issued by the respondent and quash the same as illegal and arbitrary.

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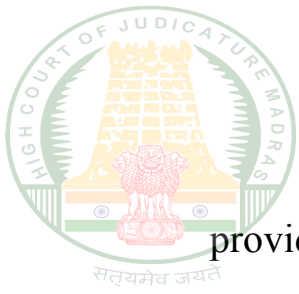
For Petitioner : Mr.S.Muthuvenkatraman

For Respondent : Mr.R.Nandha Kumar,
Standing Counsel

ORDER

The assessment order dated 20.12.2023 passed by the respondent under Section 74 of CGST Act 2017, is challenged in this writ petition.

2. The learned counsel appearing for the petitioner claims that under Section 75(5) of CGST Act 2017, the respondent ought to have provided three personal hearings. In this case, the petitioner was issued with notices for personal hearings on 26.10.2023, 10.11.2023 and on 04.12.2023. The notice for the personal hearing on 26.10.2023 was received by the petitioner only on 20.10.2023. Therefore, the petitioner could not collect the materials and to appear before the respondent to submit his case. Therefore, he has made a request to the respondent to



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provide sufficient time for submitting his case by way of a representation dated 25.10.2023. However, the respondent, in a similar manner, has issued another notice dated 01.11.2023 for the second personal hearing on 10.11.2023, which was received by the petitioner only on 06.11.2023. The 3rd personal hearing was fixed on 04.12.2023, on that day, there was a cyclone. Therefore, the petitioner has made a request to the respondent to permit him to appear through video conference, however, that opportunity was not provided to the petitioner. The learned counsel further submits that the petitioner is having sufficient documents/materials to substantiate his case and he is ready to appear before the concerned authority, if one more opportunity is provided to him.

3. Mr.R.Nandhakumar, learned Standing Counsel appearing for the respondent submits that sufficient opportunities were provided to the petitioner as contemplated under Section 75(5) of CGST Act, i.e. on 26.10.2023, 10.11.2023 and 04.12.2023. But, the petitioner has not



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availed those opportunities and now, he has raised a ground that he was not provided with sufficient opportunities.

4. This Court has considered the rival submissions made.

5. A notice for the personal hearing on 26.10.2023 was said to have been issued on 20.10.2023 and another notice for the second personal hearing on 10.11.2023 was also received by the petitioner on 06.11.2023. The petitioner claims that there was a cyclone on 04.12.2023 and therefore, he could not appear for enquiry on that day and he has made a request to the respondent to permit him to appear through video conference, however, his request was not considered.

6. Since the provisions under Section 75(5) of GST Act, 2017, provides for three personal hearings and the petitioner is having sufficient materials to substantiate his case, this writ petition is disposed of with a direction to the respondent to provide one more



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hearing to the petitioner. The date of hearing is fixed as 07.03.2024.

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The petitioner, without expecting any separate notice from the respondent, shall appear before the respondent on 07.03.2024 without fail and produce all relevant documents to substantiate his case. The respondent shall consider the case of the petitioner and pass suitable orders as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

28.02.2024

ogy

NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

To

The Joint Commissioner,
Office of the Additional Commissioner
of GST and Central Excise,
No.7, Tractor Road,
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B.PUGALENDHI, J.

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