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W.P.Nos.14865, 14869, 14873,  
14875 &14877 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.08.2024

Coram

**The Hon'ble Mr.Justice Krishnan Ramasamy**

**W.P.Nos.14865, 14869, 14873,**  
**14875 &14877 of 2024**

**and**

**W.M.P.Nos.16122, 16124, 16127, 16129,**  
**16131 to 16134 of 2024**

M/s.K.N.Raj Construction  
Rep., by its Managing Partner,  
No.301, Periyar Nagar,  
Kattiganapalli,  
Krishnagiri 635 001.

...Petitioner in all W.Ps'

Vs.

The Assistant Commissioner (ST)  
Inspection, Salem Division,  
Room No.316, 2<sup>nd</sup> Floor, Commercial Taxes Buildings,  
Hasthampatty, Salem 636 007.

... Respondents in all W.Ps'

**Prayer in W.P.No.14865 of 2024:** This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for entire records relating to impugned proceedings dated 13.09.2023 passed in GSTIN:33AAQF3022J1ZE F.Y 2019-2020 on the file of the respondent quash the same.

**Prayer in W.P.No.14869 of 2024:** This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for entire



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records relating to impugned proceedings dated 13.09.2023 passed in GSTIN:33AAQF3022J1ZE F.Y 2021-2022 on the file of the respondent quash the same.

**Prayer in W.P.No.14873 of 2024:** This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for entire records relating to impugned proceedings dated 13.09.2023 passed in GSTIN:33AAQF3022J1ZE F.Y 2020-2021 on the file of the respondent quash the same.

**Prayer in W.P.No.14875 of 2024:** This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for entire records relating to impugned proceedings dated 13.09.2023 passed in GSTIN:33AAQF3022J1ZE F.Y 2017-2018 on the file of the respondent quash the same.

**Prayer in W.P.No.14877 of 2024:** This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for entire records relating to impugned proceedings dated 13.09.2023 passed in GSTIN:33AAQF3022J1ZE F.Y 2018-2019 on the file of the respondent quash the same.

(Appearance in all W.P.s')

For Petitioner : Mr.R.Ezhilarasan

For Respondent : Mr.V.Prashanth Kiran  
Government Advocate (Tax)

**COMMON ORDER**



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Since the issue involved and the relief sought in all these Writ Petitions are identical in nature, the same were heard together and are disposed of vide this common order.

2. Challenging the impugned orders dated 13.09.2023 passed by the respondent, the petitioner has filed these Writ Petitions.

3. Mr.V.Prashanth Kiran, learned Government Advocate (Tax), takes notice on behalf of the respondent.

4. By consent of the parties, the main Writ Petitions are taken up for disposal at the admission stage itself.

5. Alleging that there is mismatch of tax liability for the financial years 2017-2018, 2018-2019, 2019-2020, 2020-2021 and 2021-2022, the respondent passed the impugned orders dated 13.09.2023 respectively, demanding the payment of differential amount in respect of impugned assessment periods.

6. The learned counsel for the petitioner submitted that the



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respondent uploaded Form DRC-01A dated 27.01.2023 in GST online portal, for which, the petitioner has submitted its reply on 31.01.2023. Without considering the said reply dated 31.01.2023, again the respondent issued form GST DRC-01 dated 12.06.2023. As the petitioner had no knowledge about the same, the petitioner failed to submit its reply. Under these circumstances, the present impugned ex-parte orders dated 13.09.2023 came to be passed by the respondent, without filing the reply and without affording an opportunity of personal hearing to the petitioner. He further submitted that even the impugned orders were uploaded in the GST portal and the physical version of such orders were not served on the petitioner. It is also submitted that, pursuant to the impugned orders dated 13.09.2023, the petitioner's Bank account was attached and around a sum of Rs.1.45 crores was transferred by the respondent, out of total tax liability would come around Rs.11.20 crores in terms of DRC-01. Hence, he sought for appropriate orders from this Court for affording an opportunity to the petitioner to present the case by way of filing a suitable reply and participate in the proceedings.

7. The learned Government Advocate appearing for the respondent would submit that the form GST DRC-01A was issued, for which, the reply has also been filed by the petitioner. However, the petitioner has failed to make any



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reply for Form DRC-01 dated 12.06.2023 for the financial years 2017-2018, 2018-2019, 2019-2020, 2020-2021 and 2021-2022 and the total tax liability would come around Rs.11.20 crores. As the learned counsel for the petitioner submitted that a sum of Rs.1.45 crores has already been withdrawn from his Bank account, subject to the verification of the payment of Rs.1.45 crores, this Court may remand the matter to the Authority concerned for passing appropriate orders.

8. Heard the learned counsel for the petitioner as well as the learned Government Advocate for the respondent and perused the materials available on record.

9. Considering the above submissions made by the learned counsel on either side and upon perusal of the materials, it is evident that the respondent issued Form DRC-01A dated 27.01.2023 and the petitioner also filed a reply to the said notice. Though, the Form DRC-01 dated 12.06.2023 was issued, no reply was filed by the petitioner, as the said notice was uploaded in common portal and the petitioner was unaware of such notice. The learned counsel for the petitioner contended that the reason adduced by the petitioner for non-filing of reply and non-participating in the proceedings is that he has given instruction



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to his Accountant to file a reply, however, the Accountant has failed to appear before the Authority concerned to present the case. Under these circumstances, the present impugned orders dated 13.09.2023 came to be passed by the respondent.

10. This Court is of the opinion that it is the responsibility of the Assessee to appear before the Authority concerned to present the case. Once, the show cause notice was uploaded in the common portal, the petitioner ought to have filed a reply within a stipulated time. The petitioner cannot blame the Department for not furnishing a physical copy. At the same time, when a person approached this Court with a plea that the Accountant was not brought into his knowledge about the proceedings, and prayed for appropriate orders from this Court, though it is the responsibility of the petitioner to file a reply to the said notice, considering the submission that the petitioner's Accountant had failed to appear before the Authority and no reply was filed, which lead to passing of the present ex-parte order. This Court is of the view, than an opportunity to file suitable reply and a personal hearing before the Authority concerned should be granted to the petitioner, as the impugned orders were passed ex-parte violating the principles of natural justice.



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11. For the reasons stated above, this Court is inclined to set aside the impugned orders dated 13.09.2023 passed by the respondent, with the following directions:-

(i) The orders impugned herein are set aside and the matters are remanded to the respondent in respect of the assessment years 2017-2018, 2018-2019, 2019-2020, 2020-2021 and 2021-2022 for fresh consideration within a period of four weeks from the date of receipt of a copy of this order. Since a sum of Rs.1.45 crores was withdrawn from the petitioner's Bank account, this Court is not inclined to impose any further condition.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks after the date of receipt of a copy of this order.

(iii) On filing of such reply/objection by the petitioner, the respondent shall consider the same and issue a 14 days clear notice by fixing the date of personal hearing to the petitioner and thereafter, pass appropriate orders on merits and in accordance with law, as expeditiously as possible, after hearing the petitioner and subject to the verification of the payment of the aforesaid amount.

12. With the above directions, these Writ Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.



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**21.08.2024**

Index: Yes/No

Web: Yes/No

Speaking/Non Speaking

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Note: Issue order copy on 27.08.2024.

To

The Assistant Commissioner (ST)

Inspection, Salem Division,

Room No.316, 2<sup>nd</sup> Floor, Commercial Taxes Buildings,

Hasthampatty, Salem 636 007.

**Krishnan Ramasamy,J.,**

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