

Assessment Order is void when the Notice is not served by the GST Department

The Hon'ble Madras High Court (Madurai Bench) in the case of ***M/s. Tvl. Diamond Shipping Agencies Pvt. Ltd. v. Assistant Commissioner, Tuticorin [W.P. (MD) 6874 of 2023 dated August 29, 2023]*** allowed the writ petition and held that an assessment order could not be passed without serving notice as per the conditions stipulated in Section 169(1)(b) of the Central Goods and Services Tax Act, 2017 ("**the CGST Act**").

Facts:

M/s. Tvl. Diamond Shipping Agencies Pvt. Ltd. ("**the Petitioner**") operates three business verticals on the same PAN. The Revenue Department ("**the Respondent**") passed the order dated August 17, 2022, ("**the Impugned Order**") of the CGST Act raising demand against the Petitioner vide GST DRC-07 dated August 17, 2022.

Aggrieved by the Impugned Order, the Petitioner filed a writ petition before the Hon'ble Madras High Court (Madurai Bench) for setting aside the Impugned Order and directing the Respondent to re-do the assessment. It was submitted that the Impugned Order was passed without considering the Annual Returns in GSTR-9 and the Audit Statement filed in GSTR-9C. No opportunity has been granted to the Petitioner to submit the required documents. It was further submitted that, no physical notice/order was served under Section 169(1)(b) of the CGST Act, and no opportunity was granted to the Petitioner to appear before the Respondent, therefore the Impugned Order passed, violates the principle of natural justice.

Issue:

Whether the assessment order could be passed without serving notice as per conditions stipulated in Section 169(1)(b) of the CGST Act?

Held:

The Hon'ble Madras High Court (Madras Bench) in ***W.P. (MD) 6874 of 2023*** held as under:

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- Opined that, the Impugned Order is passed without serving notice under Section 169(1)(b) of the CGST Act and without considering the fact that the Petitioner has three business verticals.
- Held that, the Impugned Order is quashed, hence Writ Petition is allowed.
- Directed that, the Respondent shall grant opportunity for personal hearing to the Petitioner and Petitioner shall produce the evidence and required documents. Thereafter, the Respondent officers shall pass the required orders.
- Further Directed that, the Respondent shall complete the assessment proceedings within eight weeks from the date of receipt of the order of the Court.

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