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W.P.No.27043 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2024

CORAM :

THE HONOURABLE **MR.JUSTICE N.ANAND VENKATESH**

W.P.No.27043 of 2024
and WMP Nos.29561 & 29563 of 2024

Rajat Foods India
Rep.by its Proprietor
Sarala Devi
41 Flat No.146 D, 6th Cross Street
MKB Nagar
Vyasarpadi
Chennai 600 039.

... Petitioner

-Vs-

- 1.The Assistant Commissioner (ST)
Washermenpet (C) Assessment Circle
Integrated Commercial Taxes Building
No.32, Elephant Gate Bridge Road
Vepery
Chennai 600 003.
- 2.The Deputy State Tax Officer-1
Washermenpet Assessment Circle
Integrated Commercial Taxes Office Complex
Room No.207, 2nd floor
Elephant Gate Bridge Road
Vepery
Chennai 600 003.

... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to Assessment Order dt.09.11.2023 made in ZD331123055367M under Section 73 of TNGST Act 2017/CGST Act 2017, for tax period July 2017 – March 2018, was



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uploaded in the GST portal along with DRC 07 made by the 2nd respondent and quash the same and consequently direct the respondents to release the attachment by de-freezing the petitioner's bank account bearing Account Number 603101516931 maintained in ICICI Bank NSC Bose Road Branch.

For Petitioner : Mr.P.Vikramkumar

For Respondents : Mr.G.Nanmaran
Special Government Pleader (Tax)

ORDER

Considering the limited issue involved in this writ petition, the main writ petition itself is taken up for final hearing on consent given by either side.

2.This writ petition has been filed challenging the order passed by the 2nd respondent dated 09.11.2023 on the ground that the order was passed without affording an opportunity and in violation of principles of natural justice.

3.Heard Mr.P.Vikramkumar, learned counsel for the petitioner and Mr.G.Nanmaran, learned Special Government Pleader (Tax) for respondents.

4.The case of the petitioner is that they are registered tax payers and they have been filing monthly returns and remitting tax properly as per the TNGST Act, 2017.



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WEB COPY 5. On 08.06.2023, a notice came to be issued by the respondent alleging that there was mismatch of input tax claim under Section 73(5) of the Act.

6. The grievance of the petitioner is that they had an accountant and the entire documents were available with the accountant and since he was not doing well, he was not able to attend the hearing. The petitioner was also unaware of the issuance of the demand order. It is under these circumstances, the present writ petition was filed before this Court.

7. The learned Government Advocate (Tax) appearing on behalf of the respondent submitted that notice was issued and sufficient opportunity was given and in spite of the same, the petitioner did not avail the opportunity. Therefore, it was contended that the order does not suffer from any illegality and consequently, this writ petition is liable to be dismissed by this Court.

8. In the instant case, it is seen that notice was issued by the respondent but however, the case was handled by his accountant who did not attend the personal hearing. On going through the impugned order, it is seen that a total tax liability of Rs.5,89,004/- has been imposed against the petitioner. The petitioner has come up with a clear case that there are sufficient materials/documents to substantiate the



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defense of the petitioner to the effect that there was no mismatch of the input tax claim between GSTR 3B and GSTR 1.

9.This Court had an occasion to deal with a similar issue in WP.No.26477 of 2024 dated 12.09.2024. This Court wanted to afford an opportunity to the petitioner therein by putting the petitioner on terms. In order to maintain consistency, a similar order can be passed in this writ petition also. In the light of the above discussion, the impugned order passed by the respondent in Reference Number ZD331123055367M dated 09.11.2023, is hereby set aside. The matter is remanded back to the file of the respondent for fresh consideration on condition that the petitioner will pay 10% of the disputed tax amount to the respondent within a period of four weeks from today. If this condition is not complied with, the order passed by the respondent will stand automatically revived. On compliance with the said condition, the petitioner will file their reply/objection along with all the relevant documents within a period of two weeks thereafter. The respondent shall thereafter issue fresh notice to the petitioner and afford opportunity of personal hearing and pass final orders within a period of three months thereafter.

10.The bank account of the petitioner has been frozen. In the light of allowing this writ petition, there shall be a direction to the respondent to defreeze the bank account of the petitioner.



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WEB COPY 11. In the result, this writ petition is allowed with the above directions. No costs. Consequently, connected miscellaneous petitions are closed.

19.09.2024

Index : Yes/No
Neutral Citation : Yes/No
Speaking Order : Yes /No
KP

To

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N.ANAND VENKATESH. J.,
KP

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