



W.P.No.7850 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 25.03.2024

CORAM:

THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.7850 of 2024 and
W.M.P.Nos.8800 & 8814 of 2024

Sri Kamatchi Stores,
Represented by its Prop.Ayyamperumal Ganesan,
No.44, MTH road, Ambedkar Nagar,
Thirumullaivoyal, Chennai-600 062.
GSTIN:33AIPPG4209E1ZL.

...Petitioner

Vs.

The Deputy State Tax Officer-1,
Goods and Services Tax,
Thirumullaivoyal Assessment Circle,
Room No.115, 1st floor,
Integrated Commercial Taxes Offices Building,
No.32-Elephant Gate Bridge Road,
Partk Town, Chennai-600 003.

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the respondent in GSTIN:33AIPPG4209E1ZL/2021-2022 with DRC-07 order in Ref.No.ZD330623020845K dated 07.06.2023 and Recovery



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Notice Ref.No.GSTIN 33AIPPG4209E1ZL/2021-2022 dated 18.12.2023

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to quash the same and to direct the respondent to cross examine my suppliers those who have failed to file their return in GSTR 1 as per the Invoices received and payment made by me as per the provisions of U/s 70 and to grant a reasonable opportunity for the production of records to prove that the Input Tax Credit availed and utilized of Rs.12,04,500/- as per the provisions of U/s 16(2) of the TNGST Act, 2017 and CGST Act, 2017 through GSTR 3B for the Financial Year 2021-2022 which ought to be assessed by the respondent herein.

For Petitioner : Mr.P.Govarthanan

For Respondent : Mrs.K.Vasanthamala, Govt. Adv.(T)

ORDER

An assessment order dated 07.06.2023 and the consequential recovery notices and attachment orders are the subject of challenge.

2. The petitioner carries on the business of trading in provisions, vegetables and the like. A show cause notice was issued to the petitioner on 06.03.2023 calling upon the petitioner to show cause in respect of discrepancies between the GSTR 3B return and the GSTR 2B return. The



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petitioner did not reply thereto because he had engaged the services of a GST consultant, who did not keep the petitioner informed. The impugned assessment order was issued in the said facts and circumstances without hearing the petitioner. Thereafter, a recovery notice was issued on 18.12.2023 and a sum of about Rs.5,39,000/- was appropriated from the petitioner's bank account. The present writ petition was filed in the said facts and circumstances.

3. Learned counsel for the petitioner invited my attention to the impugned order and pointed out that the confirmed tax liability was Rs.10,89,028/-. As against this sum, he submits that a sum of about Rs.5,39,000/- was appropriated from the petitioner's account in the State Bank of India. He refers to the statement of account to corroborate such contention. Since the petitioner was not heard before issuing the impugned order, he seeks another opportunity and also points out that the petitioner had submitted a reply on 08.03.2024.

4. Mrs.K.Vasanthamala, learned Government Advocate, accepts notice for the respondent. By referring to the impugned order, she points out that such order was preceded by an intimation dated 18.05.2022 and



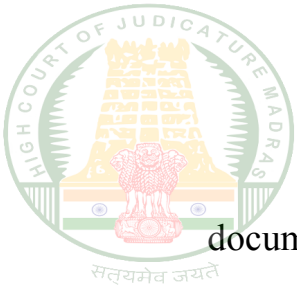
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a show cause notice dated 06.03.2023 and a personal hearing/reminder notice dated 08.05.2023. Since several opportunities were provided to the petitioner, she submits that no interference is called for.

5. The documents on record include the statement of account of the petitioner in the State Bank of India. The said statement of account indicates that debits were made towards the tax liability on 10.01.2024 and 30.01.2024. The aggregate value of such debits is about Rs.5,39,000/-. On perusal of the impugned assessment order, it is evident that the tax liability is Rs.10,89,028/- and interest and penalty was levied in respect thereof. By taking into account the fact that about 50% of the tax liability was recovered by making an appropriation from the petitioner's bank account, it is just and necessary to provide the petitioner an opportunity of being heard. Solely for that reason, the impugned order calls for interference.

6. Therefore, the impugned order dated 07.06.2023 is set aside and the matter is remanded for reconsideration. The petitioner is permitted to submit a reply to the show cause notice within a period of 15 days from the date of receipt of a copy of this order by annexing all relevant



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documents. Upon receipt thereof, the respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh order within a period of two months from the date of receipt of the petitioner's reply. In view of the assessment order being quashed, the bank attachment stands raised.

7. The writ petition is disposed of on the above terms. There will be no order as to costs. Consequently, connected miscellaneous petitions are closed.

25.03.2024

Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

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To

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SENTHILKUMAR RAMAMOORTHY,J.

Kj

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