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W.P.No.21208 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.08.2024

CORAM

**THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY**

**W.P.No.21208 of 2024**

**and**

**W.M.P.No.23158 & 23159 of 2024**

M/s.Aatral Associates,  
Rep by its Managing Partner,  
Mr.S.Aatralarasu,  
No.1/147, Selliamankovil Street,  
Veeranam Post, Villupuram 605 602.

... Petitioner

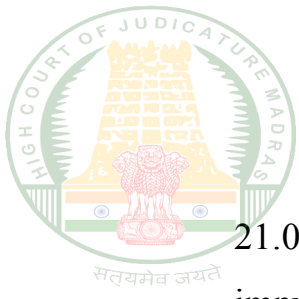
**Vs.**

- 1.The State Tax Officer,  
Villupuram II Assessment Circle,  
Villupuram.
- 2.The Appellate Deputy Commissioner (ST),  
Goods and Services Tax,  
Camp Office At Vellore.

... Respondents

**Prayer:**

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the impugned proceedings of the 1<sup>st</sup> respondent in GSTIN/33AALFA5284F1ZI/2018-2019 dated 21.03.2023 and the summary of the order in Form GST DRC-07 dated



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21.03.2023 issued in Ref.No.ZD330323104345Z and quash the impugned order as passed in violation of the principles of natural justice and contrary to the provisions of the CGST Act, 2017 and TNGST Act, 2017.

For Petitioner : Mr.P.Rajkumar

For Respondent : Mr.C.Harsha Raj,  
Additional Government Pleader

### **ORDER**

This writ petition has been filed challenging the impugned order dated 21.03.2023 passed by the 1<sup>st</sup> respondent.

2. Mr.C.Harsha Raj, learned Additional Government Pleader, takes notice on behalf of the respondents. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that in the present case, the show cause notice dated 20.02.2023 was issued to the petitioner. Thereafter, the impugned assessment order dated 21.03.2023



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was passed by the 1<sup>st</sup> respondent, wherein the tax and penalty were imposed against the petitioner. Pursuant to the said impugned assessment order, only the tax amount was paid by the petitioner. With regard to the imposition of penalty, an appeal was filed by the petitioner. However, the said appeal was rejected, by the 2<sup>nd</sup> respondent, as not maintainable. Hence, without any other option, this petition has been filed challenging the impugned assessment order passed by the 1<sup>st</sup> respondent.

4. In reply, the learned Additional Government Pleader appearing for the respondents would submit that the notice was issued to the petitioner and thereafter, the impugned order was passed by imposing tax and penalty. Subsequent to the said order, the tax was paid by the petitioner and the appeal was filed only against the penalty imposed by the respondents. Hence, he fairly requests this Court to issue appropriate direction to the 2<sup>nd</sup> respondent to take the appeal on record.



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5. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents and also perused the materials available on record.

6. In the present case, though the show cause notice was issued and impugned assessment order was passed by imposing the tax and penalty, the petitioner has paid the tax and the challenge was made only against the penalty imposed by the respondents. However, the 2<sup>nd</sup> respondent has rejected the appeal filed by the petitioner on the ground that the penalty alone cannot be challenged. Therefore, this writ petition has been filed by the petitioner challenging the impugned order.

7. In view of the above, since the petitioner has already paid the entire tax amount and filed an appeal only against the penalty imposed by the respondents, it is not proper for the 2<sup>nd</sup> respondent to reject the said appeal vide intimation dated 07.02.2024. Hence, this Court is inclined to direct the 2<sup>nd</sup> respondent to take the appeal on record. Accordingly, this Court passes the following order:-

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(i) The intimation dated 07.02.2024 issued by the 2<sup>nd</sup> respondent is set aside.

(ii) The 2<sup>nd</sup> respondent is directed to take the appeal on record and pass appropriate orders on merits and in accordance with law, after providing an sufficient opportunity to the petitioner, as expeditiously as possible.

8. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

**12.08.2024**

Speaking/Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

nsa

To

1.The State Tax Officer,  
Villupuram II Assessment Circle,  
Villupuram.

2.The Appellate Deputy Commissioner (ST),  
Goods and Services Tax,  
Camp Office, Vellore.

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**KRISHNAN RAMASAMY.J.,**

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