



WEB COPY



W.P. No.3110 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2023

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

W.P. No.3110 of 2023 and
W.M.P. No.3177 of 2023

Tvl.Al-Madhina Steel Traders,
rep. by its Proprietor Mr.P.Md.Yousuff ... Petitioner

vs.

1.The Superintendent/Intelligence Officer (ECM),
O/o.The Principal Officer or GST Central Excise,
Chennai North Commissionerate,
GST Bhavan,
26/1, Mahatma Gandhi Road,
Nungambakkam,
Chennai – 600 034.

2.The State Tax Officer (ST),
Pattaravakkam Assessment Circle,
Ambattur,
Chennai – 600 098. ... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the first respondent in reference No.CBIC-DIN-20230159TK000011851E in GSTIN No.33ABNPY9008J1Z2 dated 03.01.2023 quash the same being illegal, invalid and against the law.



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For petitioner : Mr.D.Vijayakumar

For respondents : Mr.Sai Srujan Tayi,
Standing Counsel for R1

Mrs.K.Vasanthala Mala,
Government Advocate for R2

ORDER

By consent of both the parties, this writ petition has been taken up for final disposal at the admission stage itself.

2.Challenging the impugned summons No.CBIC-DIN-20230159TK000011851E in GSTIN No.33ABNPY9008J1Z2 dated 03.01.2023, this writ petition has been filed.

3.The petitioner has challenged the impugned summons dated 03.01.2023 issued by the first respondent on the ground that the first respondent, being the Central Authority as well as the second respondent, being the State Authority, have simultaneously initiated proceedings under the GST Act against the petitioner in respect of the same subject matter, which is impermissible under law as per the provisions of Section 6(2)(b) of the GST Act 2017.



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4. Heard Mr.D.Vijayakumar, learned counsel for the petitioner, Mr.Sai Srujan Tayi, learned Standing Counsel, who accepts notice on behalf of the first respondent and Mrs.K.Vasanth Mala, learned Government Advocate, who accepts notice on behalf of the second respondent.

5. Learned Government Advocate appearing for the second respondent would submit that proceedings have been initiated against the petitioner under the provisions of GST Act 2017. She would also submit that only the summons has been issued by the first respondent. It is also submitted by her that whether the Central Authority, namely, the first respondent or the State Authority, namely, the second respondent are going to initiate proceedings under the GST Act 2017 with regard to the very same subject matter, is yet to be decided. Learned Government Advocate appearing for the second respondent also would state that as of now it is not clear as to whether the subject matter of the impugned summons dated 03.01.2023 issued by the first respondent and the proceedings initiated by the second respondent against the petitioner, are one and the same.



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6.The petitioner has submitted a reply dated 18.01.2023 to the impugned summons dated 03.01.2023 to the first respondent. Even before a decision is taken by the first respondent with regard to the contentions raised in the reply filed by the petitioner, the petitioner has filed this writ petition prematurely. The petitioner will have to necessarily await the outcome of the decision of the first respondent. However, it is mandatory on the part of the first respondent to consider the reply submitted by the petitioner expeditiously and take a call as to whether the subject matter is one and the same.

7.For the foregoing reasons, this writ petition is disposed of by directing the first respondent to consider the petitioner's reply dated 18.01.2023 to the impugned summons dated 03.01.2023 and decide as to whether the subject matter of the proceedings initiated by the second respondent as well as the proposed proceedings of the first respondent under the GST Act 2017 against the petitioner are one and the same, within a period of four weeks from the date of receipt of a copy of this order. In case the first respondent decides that the subject matter is one and the same, they will have to necessarily drop the proposed initiation of proceedings against the petitioner as per the provisions of Section



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6(2) (b) of the GST Act 2017. The first respondent is directed to give one more personal hearing to the petitioner before taking a final decision.

Consequently, connected W.M.P. stands closed. No costs.

07.02.2023

vga

Index: Yes/No

To

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