



WEB COPY



W.P.No.23175 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.08.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.23175 of 2023

and

W.M.P.Nos.22724 and 22725 of 2023

M/s.Sakthi Agencies,
Represented by its Proprietor
Sureshkumar Lalitha

... Petitioner

Vs.

1.Deputy Commercial Tax Officer,
Tirupur Central-II Circle, Tirupur-2,
Tirupur - 641 602.

2.Deputy State Tax Officer-I,
Tiruppur Central-II Circle,
Tirupur-2.

3.Deputy State Tax Officer (Circle),
Tiruppur Central-II(C),
Commercial Tax Department.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records on the file of the respondents and quash the order under Section 74 of the GST Acts dated 28.01.2023 and the consequent Summary of the Order in Form GST DRC-07



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dated 28.01.2023 both passed by the first respondent and both having Reference Number ZD330123104073A and quash the order dated 28.01.2023 in GSTIN : 33AFFPL8192J1Z4/2021-22 passed by the second respondent.

For Petitioner : Ms.N.V.Lakshmi

For Respondents : Mr.C.Harsharaj
Additional Government Pleader

ORDER

Mr.C.Harsharaj, learned Additional Government Pleader takes notice on behalf of the respondents.

2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents.

3. The petitioner is aggrieved by the impugned Assessment Order bearing Ref.No.ZD330123104073A dated 28.01.2023 passed by the first respondent for the Assessment Year 2021-2022.

4. By the impugned order, the demand proposed in the Show Cause Notices referred to in the reference column has been confirmed. The operative portion of the impugned order reads as under:-



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"In Continuation of the issuance of notice in Form GST DRC-01, in order to submit relevant documents and prove himself, Personal Hearing issued to the tax payer on 19.12.2022 through GST Portal to attend the hearing on 25.12.2022 with undersigned documents, if objections any. The tax payer had neither attended nor replied to the personal hearing."

5. This writ petition has been filed on the ground that the impugned order has been passed in gross violation of principles of natural justice inasmuch as in the subject, there is a reference to the Show Cause Notices issued under Section 74 of the Tamil Nadu Goods and Services Tax (TNGST) Act, 2017. However, a copy of the same has not been furnished.

6. Perusing the records including the Show Cause Notices issued to the petitioner, there is no doubt that the petitioner was issued with a notice, to which, the petitioner has also replied, which has culminated in the impugned order. Therefore, there is no merits in the writ petition.

7. At the same time, it is noticed that the writ petition was filed on 28.04.2023 well within the statutory period prescribed to prefer an appeal before the Appellate Commissioner under Section 107 of the CGST/SGST Act, 2017.



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9. If such an appeal filed by the petitioner within such time, the Appellate Commissioner shall dispose the appeal on merits and in accordance with law in its turn. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

08.08.2023
(1/2)

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No

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Note: Registry is directed to return the originals of the impugned order to the counsel for the petitioner to facilitate the petitioner to file statutory appeal.



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To

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Tirupur - 641 602.
2. Deputy State Tax Officer-I,
Tiruppur Central-II Circle,
Tirupur-2.
3. Deputy State Tax Officer (Circle),
Tiruppur Central-II(C),
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