IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.27227 of 2023
and
W.M.P.Nos.26665 and 26666 of 2023

Palanisamy Krishnaraj ... Petitioner

Vs.

1.Assistant Commissioner (ST),
Thirumullaivoyal Assessment Circle,
Room No.115, First Floor,
Integrated Commercial Taxes Offices Building,
No.32, Elephant Gate Bridge Road,
Park Town, Chennai - 3.

2.HDFC Bank,
Represented by Manager,
Acendas Branch,
72, CSIR Road,
Anbalagan Nagar,
Mahatma Gandhi Nagar,
Taramani, Chennai - 113. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records of the first respondent's order dated 21.01.2023 in GSTIN/33ARLPK7873R2ZR/2018-2019 and quash the same and direct the first respondent to release the bank account bearing A/c.No.50100024029050 in the second respondent bank.

For Petitioner : Mr.Adithya Reddy

For Respondents :
For R1 : Mrs.E.Ranganayaki
Special Government Pleader

ORDER

Mrs.E.Ranganayaki, learned Special Government Pleader takes notice on behalf of the first respondent.

2. Heard the learned counsel for the petitioner and the learned Special Government Pleader for the first respondent.

3. The petitioner has challenged the impugned Assessment Order bearing GSTIN/33/ARLPK7873R2ZR dated 21.01.2023 in Form GST DRC-07 for the Assessment Year 2018-2019.

4. The impugned Assessment Order precedes the Order for cancellation of registration of the petitioner's trading business on 29.04.2019, a notice in Form GST DRC-01A on 17.03.2022 and the notice in Form GST

DRC-01 on 14.07.2022, pursuant to which, the impugned Assessment Order dated 21.01.2023 has been passed.

5. Relevant portion of the impugned Assessment Order reads as under:-

"Tvl.SMK STEEL TRADERS, Thirumullaivoyal, Chennai 62 are a taxable person under the Tamil Nadu Goods and Services Tax Act, 2017 in the office of the Assistant Commissioner (ST), Thirumullaivoyal Assessment Circle.

On scrutiny of the monthly returns Form-GSTR-3B, GSTR-1 for the year 2018-2019 the following discrepancies were noticed.

<u>Mismatch between outward supplies value and tax payable as per GSTR-3B and GSTR-1</u>

Particulars	*Tax Rate*	*Turnover*	*SGST*	*CGST*	*IGST*	*CESS*
GSTR1	--	4393746	395437	395437	0	0
GSTR3B	--	2088318	187945	187945	0	0
Lesser reported in 3-B than the GSTR-1	--	(-)2305428	(-)207492	(-)207492	0	0

For the above said discrepancies the DRC-01A intimation notice under section 74 of the GST Act was issued to the tax payer on 17.03.2022. But they had not replied. Hence the Show Cause Notice in FORM GST DRC-01 under section 74(3) was issued on the tax payer on 14.07.2022. But the tax payer has not responded the notice.

In view of the above facts and circumstances I hereby confirm the above said proposal for the year 2018-2019 <u>and FORM GST DRC-07 order is hereby issued under section 74(9) of the GST Act as detailed below</u>:

Summary										
Description	Tax Period	Out ward supply lesser in 3-B than the GSTR-1 (Rs.)	Rate of Tax	PoS	CGST Tax due 9% (Rs.)	SGST Tax due 9% (Rs.)	CGST Penalty at 100% u/s 74 (Rs.)	SGST Penalty at 100% u/s 74 (Rs.)	CGST interest u/s 50(1) at 18% From 20.04.2019 to 21.01.2023 Days 1372	SGST interest u/s 50(1) at 18% From 20.04.2019 to 21.01.2023 Days 1372
Out ward supply lesser in 3-B than the GSTR-1 (Rs.)	2018-2019	2305428	18%	TN	207492	207492	207492	207492	140390	140390

Assistant Commissioner(ST)
Thirumullaivoyal Assessment Circle."

6. The specific case of the petitioner is that the petitioner had closed down the business way back in 2019 and had surrendered the registration voluntarily and the registration was cancelled on 29.04.2019.

7. The further case of the petitioner is that the petitioner was unaware

of the notices that preceded the impugned Assessment Order dated 21.01.2023 as all the notices were sent both in the web portal and the official e-mail ID, which was no longer being accessed by the petitioner as the petitioner has taken employment in a private concern.

8. There is no scope for interfering with the impugned Assessment Order.

9. The petitioner ought to have filed an appeal against the impugned Assessment Order dated 21.01.2023 within the period prescribed under Section 107 of the Tamil Nadu Goods and Services Tax (TNGST) Act, 2017.

10. Considering the fact that the issue may involve disputed questions of fact, Court is inclined to dispose this writ petition at the time of admission, by directing the petitioner to file a statutory appeal before the Appellate Authority against the impugned Assessment Order dated 21.01.2023 passed by the first respondent within a period of thirty days from the date of receipt of a copy of this order.

11. Subject to such appeal being filed within such time together with pre-deposit, the bank account of the petitioner, which has been attached shall be vacated.

12. This Writ Petition stands disposed of with the above observations. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

15.09.2023

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

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To

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C.SARAVANAN, J.

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