IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2023

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.34184 of 2022
and
W.M.P.Nos. 33634 & 33635 of 2022

M.Kandhavel
Formerly Prop. Vel Polymer,
1-A, Baladhantayutham Street,
Konavaikal, Railway Colony Post,
Erode – 638 0002. .. Petitioner

vs

1.The Assistant Commissioner,
Thindal Assessment Circle,
Commercial Taxes Building 3rd Floor,
Brough Road, Erode – 638 001.

2.The Manager,
Karur Vysya Bank,
24, Muthurangam Street,
Erode – 638 001. .. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari calling for the records relating to the order passed by the 1st respondent in ROC 1376/2020/A3 dated 08.06.2022 quash the same.

For Petitioner	:	Mr.V.Chandrasekaran
For Respondent	:	Mrs.K.Vasanthamala, Government Advocate for R1 Mr.S.Shushanth for M/s.T.S.Gopalan & Co for R2

ORDER

This writ petition has been filed by a sole proprietor, registered under the provisions of the Tamil Nadu Goods and Services Tax Act, 2017, challenging an order passed by R1 on 08.06.2022. The impugned order is one of recovery of the balance in its account in Karur Vysya Bank, which is arrayed as R2.

2. No counter has been filed in the matter.

3. It is the petitioner's case that this recovery which relates to arrears of sales tax for the period 2004 – 2005 is incorrect insofar as the entirety of the demand under order of assessment dated 29.03.2006, for that year, placed at page 22 of the typed-set, has been fully paid by the petitioner.

4. Per contra, the stand of the first respondent is that the order of assessment dated 29.03.2006 was revised subsequently and it is the revised demand that has been recovered under the impugned order.

5. To be noted, that the learned Government Advocate is unable to provide a copy of the revision order and is also unaware of the statutory provision to what that revision order relates. She has also not been in a position to provide any notice for revision or show-cause notice issued prior to the passing of the mysterious

revision order. Thus, there is prima facie, no merit in the contention that the original order of assessment dated 29.03.2006 has been revised.

6. Faced with this position, she had sought time to withdraw the recovery proceedings which is, in itself, categoric acquiescence of the position that there is no basis for the same.

7. R1 in proceedings in R.O.C.No.1376/2020/A3 dated 26.06.2023, a copy of which has been handed over to the learned counsel for petitioner, confirms that the amounts recovered from Karur Vysya Bank of a sum of Rs.3,24,466/-will be refunded. This refund will be made within 48 hours from today.

8. That apart, R1 states at clause (i) that further proceedings will be carried out as and when connected original assessment orders and demand notices are served. It is unknown as to what original assessment orders / demand notices are referred to and learned Government Advocate is also not in a position to confirm the same. I leave this matter at that. Reiterating direction at paragraph 7 of this order, this writ petition is closed. No costs. Connected miscellaneous petitions are closed.

28.06.2023

Index:Yes/No
Neutral Citation:Yes/No
ssm

To:

1.The Assistant Commissioner,
Thindal Assessment Circle,
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2.The Manager,
Karur Vysya Bank,
24, Muthurangam Street,
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DR. ANITA SUMANTH,J.

ssm

W.P.No.34184 of 2022

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