



W.P.No.1848 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 31.01.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.1848 of 2024
and W.M.P.Nos.1921, 1922 of 2024

K.S.Janarthanam,
No.5/9, 2nd Street,
Mahalakshmi Nagar,
Karambakkam, Porur,
Chennai 600 116.

... Petitioner

-VS-

The Deputy State Tax Officer I ,
O/o.The Assistant Commissioner (ST),
Porur Assessment Circle,
Ponnamallee Zone,
Kancheepuram Division
No.4/109 Chennai-Bangalore Highways,
Nazarathpet,
Chennai 600 123.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of



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India, pleased to issue a Writ of Certiorari calling for the records of the Respondent in Reference Number. ZD331223007959D dated 01.12.2023 and quash the same as arbitrary, illegal.

For Petitioner : Ms.Vijayalakshmi

For Respondent : Mrs.K.Vasanthamala, GA

ORDER

The petitioner challenges an order dated 01.12.2023 issued in respect of a rectification application filed by the petitioner on 20.11.2023.

2. The petitioner states that he is a civil works contractor and a registered person under GST laws. Initially, the petitioner received a notice in Form GST-ASMT-10 with regard to discrepancies in the



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return filed by the petitioner. This was followed by a notice under

Section 73 of the Tamil Nadu Goods and Services Tax Act, 2017 (the TNGST Act). An assessment order was issued thereafter on 04.09.2023. Upon receipt thereof, the petitioner applied for rectification on 20.11.2023. In the said rectification application, the petitioner admitted its tax liability to the extent of Rs.12,22,432/- comprising CGST of Rs.6,71,216/- and SGST of Rs.6,71,216/-. On such basis, the petitioner requested for relief from penalty. The order impugned herein was issued in the above facts and circumstances.

3. Learned counsel for the petitioner submits that the petitioner deposited a sum of Rs.12,00,000/- after admitting liability to the extent of Rs.12,22,432/-. The payment receipt at page 73 of the typed set is relied upon to corroborate the submission. By referring to the impugned order and, in particular, the revenue abstract at page 72 of the typed set, learned counsel points out that 100% penalty was imposed although the show cause notice was issued under Section



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73. The challenge is limited to the said extent.

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4. Mrs.K.Vasanthamala, learned Government Advocate, accepts notice on behalf of the respondent. She submits that the impugned order came to be issued in view of the rectification application of the petitioner.

5. On examining the notices on record, it is clear that such notices were issued under Section 73 and not under Section 74 of the TNGST Act. Therefore, the impugned order calls for interference as regards the imposition of penalty at 100% on the SGST dues.

6. For reasons set out above, the impugned order is quashed only insofar as it pertains to imposition of penalty under the two heads indicated in the revenue abstract of the impugned order. As a corollary, the matter is remanded to the assessing officer for re-



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consideration as regards the penalty imposed under the impugned order. After providing a reasonable opportunity to the petitioner, this exercise shall be completed within a period of *two months* from the date of receipt of a copy of this order

7. W.P.No.1848 of 2024 is disposed of on the above terms.

Consequently, W.M.P.Nos.1921, 1922 of 2024 are closed.

31.01.2024
(2/2)

rna

Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

To

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