



W.P.Nos.2624, 2629 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.Nos.2624 & 2629 of 2024
and W.M.P.Nos.2881, 2882, 2889 & 2891 of 2024

Tvl Chinnamuthu Contractors

Rep by its Managing Partner 3/3CC2 Salem Main Road

Opp Government Arts College

Dharmapuri-636 705.

... Petitioner in both WP's

-vs-

Assistant Commissioner (ST)

Dharmapuri Assessment Circle,

Dharmapuri.

... Respondent in both WP's

PRAYER in W.P.No.2624 of 2024: Writ Petition filed under Article 226 of the Constitution of India, pleaded to issue a Writ of Certiorari, calling for the entire records relating to the order in TIN No 33283282660/2017-18 dated 04.10.2023 passed by the Respondent and quash the same.



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PRAYER in W.P.No.2629 of 2024: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, calling for the entire records relating to the notice in Na Ka No.11/2024/A1 dated 05.01.2024 issued by the 1st Respondent and quash the same and thereby direct the 1st Respondent to accept the appeal without raising the issue of delay in filing the appeal against the order in TIN NO.33283282660/2017-18 dated 04.10.2023 passed by the 2nd Respondent.

For Petitioner : Mr.T.Ramesh
in both WP's

For Respondent : Mr.C.Harsha Raj, AGP (T)
in both WP's

COMMON ORDER

In W.P.No.2624 of 2024, an assessment order dated 04.10.2023 is assailed, whereas in W.P.No.2629 of 2024, a notice dated 05.01.2024



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by which the appellate authority declined to receive the statutory appeal is assailed.

2. Learned counsel for the petitioner submits that the impugned assessment order was issued without providing a personal hearing to the petitioner and without considering the submissions made in the replies of the petitioner. He also points out that there is confusion as to whether these are proceedings under the Tamil Nadu Value Added Tax Act, 2006 (the TNVAT Act) or the Tamil Nadu Goods and Services Tax Act, 2017 (the TNGST Act) in as much as the starting point was the GSTR3B return of the petitioner. In order to substantiate this contention, he draws reference to the first paragraph of the impugned order. He further submits that a statutory appeal was presented by the petitioner before the appellate authority and that such appeal was rejected at threshold on the ground that it was filed 84 days after the date of receipt of the assessment order.



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3. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice on behalf of the respondent. By inviting my attention to the impugned assessment order, he points out that the tax proceedings pertain to the period 01.04.2017 to 30.06.2017, which is the pre-GST period. He also points out that the percentage of pre-deposit of the disputed tax indicates that the petitioner is aware that the proceedings are under the TNVAT Act.

4. The documents on record include the receipt evidencing payment of a sum of Rs.2,53,540/- by the petitioner. The tax liability, as per the impugned assessment order, is a sum of Rs.10,14,136/-. Thus, the amount paid is about 25% of the disputed tax. This pre deposit satisfies the requirements of Section 51 of the TNVAT Act. The appellate authority refused to receive the payment because the limitation period prescribed in the TNVAT Act is 60 days unlike the TNGST, which prescribes the limitation period of 90 days. Given the fact that there is some basis to contend that there was confusion as to



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whether the proceedings are under the TNVAT Act or the TNGST Act and taking into account the fact that the requisite pre-deposit was made, this is an appropriate case to direct the appellate authority to receive and dispose of the appeal on merits without going into the aspect of limitation.

5. Accordingly, the order impugned in W.P.No.2629 of 2024 is quashed and the appellate authority is directed to receive and dispose of the statutory appeal on merits after providing a reasonable opportunity to the petitioner. In view thereof, W.P.No.2624 of 2024 is closed. Consequently, W.M.P.Nos.2881, 2882, 2889 and 2891 of 2024 are closed.

07.02.2024

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Index : Yes / No

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SENTHILKUMAR RAMAMOORTHY,J

rna

To

Assistant Commissioner (ST)
Dharmapuri Assessment Circle,
Dharmapuri.

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and W.M.P.Nos.2881, 2882, 2889 & 2891 of 2024

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