



WEB COPY



W.P.No.4112 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2024

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

Writ Petition No.4112 of 2024 and
W.M.P.Nos.4425 & 4426 of 2024

Tvl.Popular Mega Motors (India) Private Limited,
Represented by its authorised Signatory,
Alagappan R., aged 56 years,
S/o.Ramanathan, No.59,
Habib Towers, 1st avenue,
100 feet road, Ashok Nagar,
Chennai, Tamil Nadu-600 083.

... Petitioner

-VS-

1.Union of India
Through its Secretary Ministry of Finance,
Department of Revenue,
Government of India, North Block,
New Delhi-110 001.

2.State of Tamil Nadu
Through its Secretary to Government,
Commercial Taxes and Registration Department,
Fort St. George,
Chennai-9.

3.The Commissioner of State Tax,
Chennai, Tamil Nadu.



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4.The State Tax Officer,
Grade-IX Inspection – I,
Chennai, Tamil Nadu.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records of the impugned show cause notice bearing Reference No.ZD330124129912P (2020-2021) dated 29.01.2024 on the file of the 4th respondent herein and quash the same.

For Petitioner : Mr.Jatin Harjai
for Mr.Harish Bindumadhavan

For R1 : Mr.S.Gurumoorthy,
Senior Standing Counsel

For R2 to R4 : Mr.C.Harsha Raj,
Additional Government Pleader (T)

ORDER

By this writ petition, the petitioner challenges a show cause notice dated 29.01.2024.

2. Pursuant to an inspection under Section 67 of the State Goods and Services Tax Act, 2017, the show cause notice impugned herein came to be issued.



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3. Learned counsel for the petitioner assails the show cause notice primarily on the ground that such notice was issued by the officer who undertook inspection under Section 67. By relying on the judgment of the Hon'ble Supreme Court in *Ashok Kumar Yadav and others v. State of Haryana and others*, (1985) 4 SCC 417, he submits that the Hon'ble Supreme Court concluded that the necessity to ensure that no person should be a judge in his own cause extends to proceedings undertaken by quasi-judicial and even administrative authorities. He also relied upon a Circular dated 09.02.2018 of the Central Board of Excise and Customs in this connection.

4. In response to these contentions, Mr.C.Harsha Raj, learned Additional Government Pleader, has placed on record Circular No.13/2022-TNGST dated 08.11.2022. With reference thereto, he submitted that the inspecting officer is required to issue the show cause notice covering all issues identified for adjudication. If the tax payer declines to pay tax, interest and penalty and contests the demand made in the show cause notice, he states that the Circular envisages that the relevant file be transferred to



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some other proper officer working under the control of the Joint Commissioner (Intelligence). In the case at hand, he submits that the assessment proceedings pertaining to the petitioner were transferred by the inspecting officer to Mr.Sridharan, Assistant Commissioner.

5. On instructions, learned Additional Government Pleader, further submits that the assessment proceedings of the petitioner for other assessment periods and arising out of inspection were also transferred to the same Assistant Commissioner. This statement is recorded.

6. Learned counsel for the petitioner referred to the show cause notice and raised the objection that such show cause notice provides for a personal hearing before the inspecting officer.

7. Upon considering the above submissions, it is clear that the grievance of the petitioner would stand resolved if the reply of the petitioner is made through the GST portal and such reply is considered and all further proceedings are undertaken by Mr.Sridharan, Assistant Commissioner, or any proper officer other than the inspecting officer.



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8. Therefore, W.P.No.4112 of 2024 is disposed of by directing the petitioner to reply to the show cause notice dated 29.01.2024 subject to the condition that the assessment proceedings shall be undertaken only by an officer other than the inspecting officer who issued the impugned show cause notice. The petitioner's reply to the show cause notice shall be issued within a maximum period of 30 days from the date of receipt of a copy of this order. There will be no order as to costs. Consequently, connected miscellaneous petitions are closed.

23.02.2024

Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No

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SENTHILKUMAR RAMAMOORTHY,J.

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