



WEB COPY



W.P.No.7017 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.03.2024

CORAM:

THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.7017 of 2024 and
W.M.P.Nos.7836 & 7838 of 2024

Sri. Vijayshanthi Hardware,
Represented by its Proprietor,
J.Bharathkumar, No.39,
Venkatachala Mudali Street,
Chennai-600 003.

...Petitioner

Vs.

The Assistant Commissioner (ST)(FAC),
Park Town Assessment Circle,
Integrated Commercial Taxes Office Complex,
No.305, III floor, Elephant Gate Bridge Road,
Chennai-600 003.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for records on the file of the respondent pertaining to the impugned order in GSTN-33BHJPB8233R1ZZ for the assessment year 2020-2021, dated 11.07.2023 and quash the same as illegal and against the principles of natural justice and consequently direct the respondent to refund the debited amount of Rs.71,706/- to the petitioner.



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For Petitioner : Mr.K.M.Malarmannan

For Respondent : Mrs.K.Vasanthamala,
Government Advocate (T)

ORDER

An order dated 11.07.2023 is the subject of challenge in this writ petition.

2. The petitioner states that he had purchased a car in the assessment year 2021-2022. Since he had wrongly availed of Input Tax Credit (ITC) in relation thereto, it is stated that such ITC was reversed in the GSTR 3B return filed subsequently. In spite of such reversal, it is stated that the impugned order was issued.

3. Learned counsel for the petitioner invited my attention to the GSTR 3B return and pointed out that a sum of Rs.73,690/- each towards CGST and SGST was reversed under the said return. He also pointed out that subsequent to the impugned order, a further sum of Rs.71,706/- was debited from the electronic credit ledger of the petitioner.

4. Mrs.K.Vasanthamala, learned Government Advocate, accepts



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notice for the respondent. She points out that the impugned order was issued in view of the respondent not being aware of the reversal in the GSTR 3B return.

5. The petitioner has placed on record the GSTR 3B return for the month of April in the assessment year 2023-2024. Such return indicates the reversal of ITC to the extent of Rs.73,690/- each towards CGST and SGST. On examining the impugned order, it is evident that such impugned order proceeds on the basis that ITC of Rs.73,690/- each towards CGST and SGST was wrongly availed of. In other words, the said order proceeds on the basis that ITC was not reversed. In light of documents placed on record by the petitioner, the said order requires reconsideration.

6. For reasons set out above, the impugned order dated 11.07.2023 is quashed and the matter is remanded for reconsideration. The petitioner is permitted to file a reply to the show cause notice dated 19.04.2023 and to submit all relevant documents along with such reply. Such reply shall be submitted within a maximum period of two weeks from the date of receipt of a copy of this order. Upon receipt thereof, the assessing officer



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is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh assessment order within a period of two months from the date of receipt of the petitioner's reply.

7. The writ petition is disposed of on the above terms. There will be no order as to costs. Consequently, connected miscellaneous petitions are closed.

19.03.2024

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

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To

The Assistant Commissioner (ST)(FAC),
Park Town Assessment Circle,
Integrated Commercial Taxes Office Complex,
No.305, III floor, Elephant Gate Bridge Road,
Chennai-600 003.

SENTHILKUMAR RAMAMOORTHY,J.



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