IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **19.03.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

**W.P.No.7304 of 2024**
**&**
**WMP Nos.8168, 8169 & 8172 of 2024**

Vallaiappan Subramanian
Proprietor Tvl. Vip Dyes Chemicals
31, Agilmedu 5th Street,
Sait Colony, Erode 638 001. ... Petitioner

vs

1. Commercial/State Tax Officer,
   Park Road, Erode – 638 001
   Tamil Nadu.

2. Assistant Commissioner (ST)
   Park Road Erode – 638 001
   Tamil Nadu

3. The Branch Manager
   Indian Overseas Bank,
   72, Perundurai Road, Surampatti,
   Erode – 638 011. ... Respondents

**PRAYER** : Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari, to call for the records in the file of the Respondents and quash the order under section 73 of the TNGST Act dated 03.10.2023 having Reference Number No.ZD331023002701B along with Summary of the Order dated 03.10.2023 having Reference No.ZD331023002701B (Impugned Order) passed by the First Respondent and the consequential recovery Notice issued by the Second Respondent to the Third Respondent in Form GSTR DRC-13 dated 03.10.2023 for the year 2021-22.

For Petitioner : Mr.N.V.Krishnan
for Mr.N.V.Balaji

For Respondents : Mr.T.N.C.Kaushik,
Addl. Govt. Pleader (Taxes)

**ORDER**

The petitioner challenges an order dated 03.10.2023 and the consequential recovery notice dated 03.10.2023.

2. The petitioner is engaged in the trading of dyes and chemicals and he is a registered person under applicable GST

enactments. Upon noticing discrepancies in the returns filed by the petitioner, a notice in Form ASMT-10 was issued in May 2023. After issuing an intimation in June, 2023, a show cause notice was issued in July, 2023. Thereafter, the impugned order was issued in October, 2023. The petitioner asserts that he was unaware of the notices and the impugned order until receipt of information from the Indian Overseas Bank with regard to the attachment of his bank account. It is further stated that the petitioner is a senior citizen and he was bedridden during the relevant period of time.

3. Learned counsel for the petitioner referred to the medical certificates pertaining to the petitioner in order to substantiate the contention regarding the ill health of the petitioner. On instructions, he submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for demand.

4. Mr.T.N.C.Kaushik, learned Additional Government Pleader (Taxes), accepts notice for respondents 1 and 2. By referring to the impugned order, he submits that the petitioner was provided sufficient opportunity to contest the tax demand. He also points out that an alternative remedy is available to the petitioner.

5. The petitioner has asserted that he is 74 years old and was unwell from September, 2023 onwards. He has also placed on record medical certificates relating to his ill health and that of his daughter. The impugned order discloses that the petitioner was not heard before such order was issued. The petitioner is not entirely blameless because the petitioner was under an obligation to monitor the GST portal continually.

6. In these circumstances, albeit by putting the petitioner on terms, the interest of justice warrants that the petitioner be provided an opportunity to contest the tax demand.

7. Therefore, the impugned order is quashed and the matter is remanded for reconsideration subject to the condition that the petitioner remits 10% of the disputed tax demand within a period of two weeks from the date of receipt of a copy of this order. The petitioner is also permitted to submit a reply to show cause notice dated 12.07.2023 within the aforesaid period. Upon receipt of the petitioner's reply and on being satisfied that 10% of the disputed tax demand was received, the assessing officer is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh assessment order within two months. As a consequence of quashing the impugned order, the bank attachments shall stand raised.

8. W.P.No.7304 of 2024 is disposed of on the above terms and connected miscellaneous petitions are closed. No costs.

**19.03.2024**

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

To

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   Tamil Nadu.

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   Tamil Nadu

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**SENTHILKUMAR RAMAMOORTHY J.**

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