



W.P.No.8468 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED: 27.03.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.8468 of 2024
and W.M.P.Nos.9420 & 9422 of 2024

M/s.Subh Sri Agencies,
Represented by its Proprietor,
Mr.Chandramohan Damani,
No.6, Flowers Road,
Entrance 2nd Lane,
Purasaiwalkam,
Chennai 600 084.

... Petitioner

-VS-

The Deputy State Tax Officer,
Peddunaickenpet Assessment Circle,
Room No.208, 2nd Floor,
Integrated Commercial Taxes Office Building,
Chennai North Division,
N.32, Elephant Gate Bridge Road,
Chennai 600 003.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, to call for the impugned



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proceedings of the respondent in GSTN: 33AGWPD2341K1ZC /
2020-2021 dated 04.07.2023 and the summary of the order dated
04.07.2023 in Form GST DRC-07 both issued in Reference No.
ZD330723009964B passed under Section 73 of the CGST Act, 2017
and TNGST Act, 2017 and quash the same as passed without
considering the objections dated 17.03.2023 and also contrary to the
provisions of the CGST Act, 2017 and TNGST Act, 2017 and in
violation of principles of natural justice.

For Petitioner : Mr.P.Rajkumar

For Respondent : Mr.T.N.C.Kaushik, AGP (T)

ORDER

An assessment order dated 04.07.2023 is the subject of
challenge. The petitioner received a show cause notice pertaining to
the disparity between the GSTR 3B returns of the petitioner and the



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GSTR 2B statement. By reply dated 17.03.2023, the petitioner pointed out that such difference is on account of the Input Tax Credit claim in respect of customs duty. In spite of such response, the petitioner states that the tax demand was confirmed under the impugned order.

2. Learned counsel for the petitioner refers to the reply dated 17.03.2023 and points out that the Input Tax Credit claimed in respect of customs duty explains the disparity between the GSTR 3B and GSTR 2A / 2B returns. Since the reply was not duly taken into account, he submits that the impugned order warrants interference. On instructions, learned counsel submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for the respondent. He points out that the impugned order was issued on 04.07.2023 and that the period of limitation for filing an appeal expired.



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WEB COPY 4. In the reply of 17.03.2023 the disparity between the GSTR 3B return and GSTR 2A / 2B return has been explain and pointing out that the replies arose in the income tax of the customs duty. In the impugned order, the said explanation was aside on the ground that relevant document to produce to prove the statement. In the facts and circumstances, albeit by putting the petitioner on terms, the petitioner should be provided an opportunity to contest such claim.

5. Solely for such reason, the order impugned herein is quashed subject to the condition that the petitioner remits 10% of the disputed tax demand within *two weeks* from the date of receipt of a copy of this order. The petitioner is also permitted to submit documents in respect of the Input Tax Credit availed of by the petitioner within the aforesaid period. Subject to receipt thereof and upon being satisfied that 10% of the disputed tax demand was received, the respondent is directed to provide a reasonable opportunity, including a personal



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hearing, and thereafter issue a fresh order within *two months* from the date of receipt of the petitioner's documents.

6. W.P.No.8468 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.9420 and 9422 of 2024 are closed.

27.03.2024
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rna
Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No

To

The Deputy State Tax Officer,
Peddunaickenpet Assessment Circle,
Room No.208, 2nd Floor,
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Chennai 600 003.



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SENTHILKUMAR RAMAMOORTHY,J

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