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W.P.No.9624 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2024

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.9624 of 2024
and W.M.P.Nos.10656 & 10657 of 2024

M/s.Oasys Cybernetics Private Limited
Represented by its Managing Director
Mr.Elango
No.3, OAS Towers, Stringers Road,
Vepery, Chennai 600 003.

... Petitioner

-VS-

State Tax Officer,
Vepery Assessment Circle,
Palaniappa Maaligai, No.10,
Greens Road, Chennai 600 006.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records in detailed order Ref.No. GSTIN: 33AACC02848M1Z8/2017-18, dated



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29.12.2023 quash the same having been passed in violation of the principles of natural justice without considering the detailed defence put forth by the petitioner and also violative of Art 19(1)(g) and 265 of the Constitution.

For Petitioner : Mr.G.Natarajan, M.S.Krishnakumar

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

ORDER

An assessment order dated 29.12.2023 is challenged in this writ petition. The petitioner is engaged in the business of supplying and installing point of sale machines in ration shops operated by the Tamil Nadu Civil Supplies Corporation by integrating the same with a central server. In respect of assessment period 2017-18, the petitioner received show cause notice dated 14.09.2023 with regard to discrepancies between the petitioner's GSTR 3B returns and the auto



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populated GSTR 2A. Such show cause notice was replied to on 10.10.2023 and 17.10.2023 by enclosing annexures. The impugned order was issued on 29.12.2023 in the said facts and circumstances.

2. Learned counsel for the petitioner contended that the discrepancy arose on account of about three reasons. The first of these was the issuance of credit notes by the petitioner to the recipient of services. Since it was the first year of implementation of GST statutes, learned counsel submitted that such credit notes were not reflected under the 9B heading of the GSTR 1 statements and instead reflected in the heading relating to B2C (others) transactions. By adverting to the petitioner's reply in this regard, he pointed out that the petitioner stated that the credit notes were erroneously reported as Input Tax Credit and that there was no revenue impact as a consequence. He further submitted that the relevant credit notes were enclosed. As regards other reasons for the discrepancy, learned counsel submitted that the petitioner submitted a certificate dated



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16.12.2023 from the Chartered Accountant in compliance with

Circular No.183. By referring to the impugned order, learned counsel submitted that these contentions were not taken into consideration by the assessing officer, and that ITC to the extent of Rs.4,08,39,428/- was reversed because the petitioner made an inadvertent error in the manner of reporting thereof in the GSTR 1 statement. Likewise, he submitted that the certificate produced by the Chartered Accountant was rejected without assigning any reasons.

3. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for the respondent. He points out that the petitioner should have reflected the credit notes in the GSTR 1 statement under the appropriate heading pertaining to credit / debit notes. He also submits that the amounts mentioned under the heading 7-B2C does not tally with the value of credit notes issued by the petitioner.



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WEB COPY 4. The petitioner has placed the GSTR 1 statement on record.

As submitted by learned counsel for the petitioner, no entries are made with regard to credit / debit notes. Instead, in the heading relating to B2C, total invoice value of minus Rs.15,58,21,210.14/- and total taxable value of minus Rs.13,20,51,873/- is shown. In the reply of the petitioner to the show cause notice, it is stated that credit notes were erroneously reported as ITC. In the impugned order, the assessing officer dealt with the above contentions by recording the following findings:

"The contention of taxpayer is, the above credit note for Rs.4,08,39,428.00 was wrongly taken into in the ITC register for the month of January 2018, but on verification of the GSTR - 1, it is noticed there is no such invoices and credit notes has been reported further, the Government has announced any omission of datas has to be reported opportunity for the tax period 2017-18 time



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extended still 23.04.2019. But the taxpayer has not reported for the credit notes in the GSTR - 1.

Further on verification of the GSTR - 2A of the recipient of Tvl.Tamil Nadu Civil Supplier, neither the above invoice nor the credit notes reflected for the period from 01.07.2017 to 23.04.2019.

In the view of the above fact, the taxpayer reply is not acceptable, the reversal of ITC of Rs.4,08,39,428.00 under TNGST Act / CGST Act is confirmed."

Sl.No.	Head	Tax (Rs.)	Interest (Rs.)	Penalty (Rs.)
1.	CGST	20419714.00	21519581.00	2041971.00
2.	SGST	20419714.00	21519581.00	2041971.00

5. On examining the above findings, I find that the explanation of the petitioner was not duly examined from the perspective of ascertaining whether the amount reflected as ITC tallies with the value of credit notes issued by the petitioner. If such exercise had



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been carried out, it would become clear as to whether there was revenue loss by way of excess availment of ITC. Since such exercise was not carried out and findings were recorded confirming the tax demand merely because credit notes were not duly reported in GSTR 1 or in the auto populated GSTR 2A, the impugned order calls for interference on this issue.

6. As regards the provision of a Chartered Accountant's certificate to explain the discrepancy to the extent of about Rs.53,18,913/-, the impugned order merely records that the certificate issued by the Chartered Accountant and the petitioner's reply are not accepted. It is unclear as to why the certificate was rejected because no reasons are discernible from the impugned order.

7. For reasons set out above, the impugned order calls for interference and is hereby set aside. As a corollary, the matter is remanded for re-consideration by the respondent. The respondent is



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directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh order after taking into consideration the contentions of the petitioner. Such order shall be issued within *two months* from the date of receipt of a copy of this order.

8. W.P.No.9624 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.10656 and 10657 of 2024 are closed.

12.04.2024

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

To

State Tax Officer,
Vepery Assessment Circle,
Palaniappa Maaligai, No.10,
Greens Road, Chennai 600 006.



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SENTHILKUMAR RAMAMOORTHY,J

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