



WEB COPY



W.P.No.9110 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.9110 of 2024

and

W.M.P.Nos.10134 and 10135 of 2024

Tvl.Vattilvarkey Paily Sebastian
GSTN:33ALJPS9024JIZR
Represented by its Proprietor V.P.Sebastian
Door No.14/139/B, Vattalil House
Konnachal Post,
The Nilgiris - 643 239.

... Petitioner

Versus

1. The State Tax Officer, Gudalur Circle,
No.12/915A, DJ Complex, Devarsholai Road,
Gudalur,
The Nilgiris - 643 212.
2. The Branch Manager,
Canara Bank,
485, ABC Thallur Road,
Erumad, Konnachal,
The Nilgiris - 643 239.
3. The Deputy Appellate Commissioner, State Tax,
Commercial Tax Building,
Dr.Balasundaram Road,
Coimbatore - 641 018.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India pleaded to issue a Writ of Certiorari and call for the records pertaining to the impugned recovery notice in Form GST DRC-13 bearing reference number 33ALIPS9024JIZR/2017-18 dated 15.03.2024, issued by the 1st respondent and quash the same.

For Petitioner : Mr.G.Derrick Sam
For Respondents : Mrs.K.Vasanthamala
Government Advocate (Tax) (for R1 & R3)

ORDER

The recovery notice dated 15.03.2024 pursuant to the appellate order dated 20.12.2023 is challenged by way of this writ petition.

2. Pursuant to the proceedings initiated against the petitioner, an order in original was issued on 15.03.2024. Such order was carried in appeal before the appellate authority by the petitioner. The petitioner's appeal was rejected by appellate order dated 20.12.2023. The impugned recovery notice was issued thereafter on 15.03.2024.

3. Learned counsel for the petitioner submits that the petitioner is constrained to approach this Court in view of the fact that the appellate tribunal is not functioning as on date. He also submits that the petitioner is entitled to file an appeal within three months from the date on which the



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President of the State Appellate Tribunal assumes office. Until such time, he submits that the petitioner seeks interim protection.

4. Mrs K. Vasanthamala, learned Government Advocate (Tax), accepts notice on behalf of respondents 1 and 3. She points out that appellate order has not been challenged in this writ petition.

5. Under Section 112 of applicable GST enactments, an appeal to the appellate tribunal is provided for. The filing of such appeal is made subject to the condition that a pre-deposit is made in accordance with sub-section (8) of Section 112.

6. As per sub-section (9) of Section 112, subject to fulfilment of requirements of sub-section (8), recovery proceedings shall be deemed to be stayed till the disposal of the appeal. Therefore, subject to the petitioner complying with the requirements of sub-section (8), the petitioner would be entitled to the benefit of sub-section (9) provided the petitioner files an appeal within the prescribed time limit.

7. For reasons set out above, W.P.No.9110 of 2024 is disposed of with



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the following directions and conditions:-

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i) The petitioner is directed to pay 20% of the remaining tax in dispute in addition to the amount paid under sub-section (6) of Section 107, within two weeks from the date of receipt of a copy of this order;

ii) The petitioner shall file an appeal within the maximum period of three months from the date on which the President of the State Tribunal assumes office;

iii) Subject to fulfilment of the above conditions, there shall be a stay of recovery proceedings.

iv) There shall be no order as to costs. Consequently, connected miscellaneous petitions are also closed.

04.04.2024

Index : No

Speaking Order : Yes

Neutral Case Citation: No

klt



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To

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