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W.P. No.12117 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2025

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.12117 of 2024
and W.M.P. Nos.13215 and 13217 of 2024

Procandour Automotive Systems Private Limited,
Represented by its Managing Director Mr.K.Ilayaraja,
S.No.126/2A3, Amarmbedu Road, Nallur Village,
Kanchipuram-600 067.

... Petitioner

Vs.

Commercial / State Tax Officer,
Oragadam, Sriperumbudur Station,
Nasarath Pattei, Poondhamallee,
Chennai-600 123.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari and quash

i) The summary of the order in Form GST DRC-07 dated 30.12.2023 passed under Section 73 of the Tamil Nadu Goods and Service Tax Act, 2017 (TNGST Act)/ Central Goods and Service Tax Act, 2017 (CGST Act) dated for the Financial Year ('FY') 2017-18 both passed by the Respondent and both having Reference Number ZD3312232756991.

ii) The order dated 30.12.2023 in GSTIN/33AAJCP1684P1ZU/ 2017-18 for the financial year ('FY') 2017-18 passed by the Respondent.

For Petitioner : Mr.N.V.Balaji

For Respondents : Mr.C.Harsha Raj
Additional Government Pleader



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ORDER

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Today, the matter is listed under the caption “for being mentioned”. This Court vide order dated 12.11.2024, disposed of the writ petition.

2. It is submitted by the learned counsel for the petitioner that the order suffers from factual errors.

3. In view thereof, the order in the writ petition will now read as under:

4. The present writ petition has been filed challenging the impugned order dated 30.12.2023 on the ground that the objection in response to the show cause notice was not even considered and thus suffers from non-application of mind to the material on record. The petitioner is a registered dealer under the GST Act, engaged in the manufacturing of weighing machineries and accessories. The petitioner filed its returns for the Financial Year 2017-18 and paid appropriate taxes. While there was an Audit under Section 65 of the TNGST Act, 2017. During the course of Audit, the following defects were noticed:



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Defect No. in year 2017-18	Particulars	Defect Reference in Order for the year 2018-19	Page Reference in the FY 2018-19 Order	Stand of the Department for the year 2018-19 in respect of the said adjustment
1.	Difference in ITC as per GSTR 2A and GSTR 9/3B	1	1 to 2	Dropped
2.	Ineligible claim of ITC on purchase of building	4	5 to 6	Dropped
3.	Ineligible claim of ITC on transport services	20	22 to 23	Dropped
4.	Ineligible claim of ITC on personal use	15	15 to 17	Dropped
5.	Ineligible claim of ITC on personal use	15	15 to 17	Dropped
6.	Copies of invoices in respect of credit notes	25	27 to 28	Dropped
7.	Employment Benefit Expenses	29	31 to 32	Dropped
8.	Directors Remuneration	Not Applicable	Not Applicable	Not Applicable
9.	Business Promotion Expenses	32	33 to 34	Dropped
10.	Travelling Expenses	Not Applicable	Not Applicable	Not Applicable
11.	Staff Transportation Expenses	32	33 to 34	
12.	Fuel expenses - Staff	29	31 to 32	
13.	ITC availed on Rent and Insurance. Other Misc. Expenses and Capital Goods	Not Applicable	Not Applicable	Not Applicable
14.	Factory Maintenance Expenses, Factory Renovations expenses, Factory & Plant Installation expenses, Repair and Maintenance Office, Repair and Maintenance Plant and Discount Payable.	32	33 to 34	Dropped
15.	Trade Payable on Sunday Creditors	21	23 to 24	Partly Allowed. Interest under Section 50 alone sustained
16.	Belated Payment of Tax for the Month of January, 2018.	Not Applicable	Not Applicable	Not Applicable



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5. Thereafter, a notice was found in Form DRC-01, dated 28.09.2023.

The petitioner filed its reply on 28.10.2023, 21.11.2023, 29.11.2023 and 18.12.2023. However, the impugned order has been passed without affording an opportunity of personal hearing to the petitioner nor even referring to the reply which amounts to gross violation of principles of natural justice. Thus the impugned order suffers from non-application of mind to the material on record.

6. I find that there is merit in the submission of the learned counsel for petitioner that the impugned order suffers from the vice of non-application of mind inasmuch as there is not even a reference to the replies referred above, in the impugned order of assessment.

7. At this juncture, the learned counsel for Respondent would submit that the Respondent would re-do the assessment taking into account the above objections after providing the petitioner a reasonable opportunity of hearing.

8. In view thereof, the Respondent is directed to re-do the assessment taking into account the objections, after providing the petitioner a reasonable opportunity of hearing.



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9. The writ petition stands disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

18.03.2025

Speaking (or) Non Speaking Order
Index : Yes/ No
Neutral Citation: Yes/No
msm/ mka

To:
The Commercial / State Tax Officer,
Oragadam, Sriperumbudur Station,
Nasarath Pattei, Poondhamallee,
Chennai-600 123.



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MOHAMMED SHAFFIQ, J.

msm/ mka

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