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W.P.No.12083 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.06.2024

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.12083 of 2024

&

WMP Nos.13177 & 13179 of 2024

M/s. Perfect Assayers Private Limited,
Represented by its Director, Mr.Santosh Dattatray
aged 48 years,
No.422, 1st Floor, Thomas Street,
Coimbatore-641 001.

... Petitioner

vs

1. State Tax Officer (ST),
Office of the Assistant Commissioner (ST),
R.G.Street Circle,
Dr.Balasundaram Road,
Coimbatore-641 018.

2. The Assistant Commissioner (ST),
R.G.Street Circle,
Dr.Balasundaram Road,
Coimbatore-641 018.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus to call for the



W.P.No.12083 of 2024

records of the first respondent culminating in the Order dated 28.09.2023 issued in GST DRC-07 under reference No.ZD330923223354K and quashing the same direct the first respondent herein to pass fresh orders after granting an effective opportunity of hearing to the petitioner pending disposal of the writ petition filed by the petitioner herein.

For Petitioner : Mr.S.Murugappan

For Respondents: Mr.V.Prasanth Kiran
Government Advocate(T)

ORDER

An order in original dated 28.09.2023 is assailed on the ground that the petitioner's reply to the show cause notice was not taken into consideration. Upon receipt of show cause notice dated 27.04.2023 alleging mismatch between the petitioner's GSTR 3B returns and the GSTR 1 statement as well as between the petitioner's GSTR 3B returns and the auto-populated GSTR 2A, the petitioner replied on 26.05.2023. The impugned order was issued in these facts and circumstances on 28.09.2023.

2. Learned counsel for the petitioner invited my attention to the show cause notice and the reply thereto. As regards the discrepancy



W.P.No.12083 of 2024

between the GSTR 3B return and GSTR 1 statement, learned counsel pointed out that such mismatch was on account of not taking into account the value of credit notes. By drawing reference both to the GSTR 1 statement and the annual return in GSTR 9, learned counsel pointed out that the total value of credit notes of Rs.68,91,320/- is mentioned therein. As regards the variation between the GSTR 2A and GSTR 3B, learned counsel pointed out that such difference was on account of one supplier, S.M.Network, not reflecting the invoices in returns filed by such supplier. Learned counsel also pointed out that the annual return and the relevant invoices were enclosed with the reply to the show cause notice. By turning to the impugned order, learned counsel points out that the petitioner's explanation and the relevant documents were not taken into consideration.

3. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondent. By inviting my attention to the show cause notice, learned counsel points out that the petitioner was put on notice about the mismatch and called upon to produce



W.P.No.12083 of 2024

relevant documents. Since the petitioner failed to provide supporting documents, he submits that the tax proposal was confirmed.

4. In the reply to the show cause notice, the petitioner has explained the alleged discrepancy between the GSTR 3B and GSTR 1 by pointing out that the discrepancy is on account of not reckoning the total value of credit notes. The petitioner has placed on record the GSTR 1 statement and the annual return in GSTR 9. Both these documents reflect the total value of credit notices as Rs.68,91,320/-. As regards the variation in input tax credit between the GSTR 3B returns of the petitioner and the auto-populated GSTR 2A, the petitioner has explained the difference by pointing out that one of the suppliers, S.M.Network, did not reflect invoices for supplies made by such supplier. The relevant invoices were enclosed with the reply. In this context, it is pertinent to examine the impugned order. The operative portion of the impugned order is as under:



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W.P.No.12083 of 2024

“The tax payer failed to reply the intimation as in the reference third cited.

In continuation of the intimation, as per Rule 100(2) & 142(1)(a) of CGST Act 2017, show cause notice in DRC01 is issued to the Tax payer as in the reference fourth cited.

The reply filed by the taxpayer without any supporting documents as in the reference 4th cited. In order to take further action, one reminder notice was sent to them with personal hearing but they failed to pay the tax.

Hence an Assessment order issued under Section 73 of CGST ACT 2017 with tax, interest and penalty as due for payment.”

The above operative portion is bereft of reasons. In spite of the petitioner's GSTR 1 statement and the annual return in GSTR 9 being available, no reasons are specified as to why the petitioner's explanation was rejected. Even with regard to the discrepancy between the petitioner's GSTR 3B returns and the auto-populated GSTR 2A, in spite of the petitioner enclosing the relevant invoices to explain the discrepancy, the impugned order does not discuss the



W.P.No.12083 of 2024

explanation and record reasons for rejecting the same. Consequently,
the impugned order cannot be sustained.

5. For reasons set out above, the impugned order dated 28.09.2023 is set aside and the matter is remanded for reconsideration. The respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh order within three months from the date of receipt of a copy of this order.

6. W.P.No.12083 of 2024 is disposed of on the above terms. Consequently, WMP Nos.13177 & 13179 of 2024 are closed. No costs.

03.06.2024

Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes / No

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W.P.No.12083 of 2024

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W.P.No.12083 of 2024

SENTHILKUMAR RAMAMOORTHY J.

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W.P.No.12083 of 2024
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WEB COPY



W.P.No.12083 of 2024