



W.P.No.13213 of 2024

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.05.2024

CORAM

THE HON'BLE MRS. JUSTICE **R.KALAIMATHI**

W.P.No.13213 of 2024

and

W.M.P.Nos.14359, 14360 & 14362 of 2024

Mr.Panjatcharam Kumaravel
Proprietor of Tvl.Dhanalakshmi Agencies,
4/16B, Velmurugan Nagar, 2nd Main Road,
Venkateshwara Nagar, Kolathur,
Chennai, Tamil Nadu – 600 099.

... Petitioner

Vs.

1. The Deputy State Tax Officer-I,
Surappattu Assessment Circle,
Integrated Commercial Taxes Office Complex,
D.No.:32, Room No.117,
Elephant Gate Bridge Road, Chennai – 600 003.
2. The Assistant Commissioner (ST),
Surappattu Assessment Circle,
Integrated Building for Commercial Taxes,
No.32, Elephant Gate Bridge Road, (Off Wall Tax Road),
Vepery, Chennai – 600 003.
3. Tamil Nadu Mercantile Bank Ltd.,
Branch Office, 213, Thilaga Towers,
Madhavaram High Road,
Perambur, Chennai – 600 011.

...Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for records of the Respondents and quash the Impugned Order dated 21.11.2023 in Form GST DRC-07 read with the detailed order enclosed as Annexure bearing Reference No.ZD331123129797C and GSTIN 33AJOPK7058F1Z1/2017-18 passed by the first Respondent and consequently direct the first Respondent to provide an opportunity to the Petitioner to respond to the Show Cause Notice dated 22.09.2023 in Form GST DRC-01 and Annexure bearing Reference: ZD330923148130Q issued by the first Respondent.

For Petitioner : Mr.Bharath R. Srinivas

For Respondents : Ms.K.Vasanthamala
Government Advocate (Tax)

ORDER

This Writ Petition is filed for quashment of the Order dated 21.11.2023 in Form GST DRC-07 read with the detailed order enclosed as Annexure bearing Reference No.ZD331123129797C and GSTIN 33AJOPK7058F1Z1/2017-18 passed by the first Respondent and consequently to direct the first Respondent to provide an opportunity to the Petitioner to respond to the Show Cause Notice dated 22.09.2023 in Form GST DRC-01 and Annexure bearing Reference: ZD330923148130Q issued by the first Respondent.



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2. The petitioner submits that he is engaged in the business of procuring and distributing “Rich & Roy” sweets and snacks to retail outlets and running the business in the name and style of M/s.Dhanalakshmi Agencies. Due registration was obtained under the Provisions of the Tamil Nadu Goods and Services Tax Act, 2017 vide GSTIN 33AJOPK7058F1Z1.

3. On 04.03.2024, he received a letter dated 29.02.2024 from the second respondent Office intimating non-payment of GST arrears pursuant to the assessment order. On verification of the contents on the GST Portal with the assistance of his Consultant engaged for GST related compliance, he was told that it was not possible to trace the details of any such demand/proceedings pending against him.

4. The petitioner further submits that he came to know that the proceedings were initiated by issuance of notices and orders and they were issued and uploaded by the first respondent on the GST Portal under the tab “View Additional Notices and Orders”. The said notices and orders are as follows:



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(i) Notice intimating discrepancies in returns filed in Form GST ASMT-10 dated 30.08.2023 along with Detailed Annexure bearing Reference: ZD3308231769324.

(ii) Intimation of tax ascertained as being payable under Section 73 (5) dated 15.09.2023 in Form GST DRC-01A and Annexure bearing Reference: ZD330923098696Y (DRC-01A Notice).

(iii) Show Cause Notice dated 22.09.2023 in Form GST DRC-01 and Annexure bearing Reference: ZD330923148130Q (SCN)

(iv) Reminder-1 Notice dated 02.11.2023 and bearing Reference No.ZD331123013485W (Reminder Notice)

(v) Personal Hearing Notice dated 02.11.2023

(vi) Order under Section 73 dated 21.11.2023 and bearing Reference No. and Annexure ZD331123129797C (Impugned Order)



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5. He also received a letter dated 07.03.2024 from the third respondent Bank, marking lien on his Current Account No. 157150050801506 under business/trade name M/s.Dhanalakshmi Agencies bearing reference to attachment order passed by Commercial Tax Department Order dated 04.03.2024 containing GST Ref.No.33AJOPK7058F1Z/2023.

6. It is the specific contention of the petitioner that some inadvertent errors were committed while filing monthly GSTR-3B returns during 2017-18 wherein ITC available on tax paid on inward supplies were mistakenly reported under the column ITC available on "Inward supplies liable to reverse charge".

7. It is also the specific contention of the petitioner that he had only procured supplies from one registered person namely Rich Roy Sweets and Snacks having GSTIN: 33AVCPB6025H1Z5 for retail distribution of sweets and snacks. It is also relevant to note that this inward supplies were also not notified as tax payable by the petitioner as a buyer under Reverse Charge Mechanism "RCM".



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8. Ms.K.Vasanthamala, learned Government Advocate (Tax) submits that the intimation was issued as early as on 15.09.2023 and the show cause notice was issued in Form GST DRC-01 dated 22.09.2023 and personal hearing notice and reminder notice dated 02.11.2023 were issued and the impugned order was passed on 21.11.2023. The petitioner being a registered person under the GST Regime, his plea for not having accessed the Portal for long period cannot be accepted as a valid reason and she would further submit that the petitioner be directed to avail the statutory remedy.

9. On a close perusal of the impugned proceedings, it appears that the intimation notice, show cause notice and reminder notice were issued as mentioned supra before issuance of the impugned proceedings. It is pertinent to note that the above said notices and the orders were uploaded in the “View Additional Notices and Orders” tab in the GST Portal. It is also pertinent to note that these notices and orders hitherto were being uploaded on the “View Notice” tab.

10. The learned Government Advocate would submit that the GST Authorities have redesigned the dash board of the Portal in this year and



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the types of notices and orders are clearly been specified.

11. In the fact and circumstances, based on the reasons given by the petitioner herein, in order to afford an opportunity to the petitioner herein to putforth his points, the impugned order is to be interfered. The impugned order stands quashed subject to the condition that the petitioner remits 10% of the disputed tax demand for the assessment year 2017-2018 within a period of four weeks from the date of receipt of copy of this order. On such terms, the Assessing Officer to consider his Appeal after affording reasonable opportunity to the petitioner. On compliance of the condition, the Assessing Officer to issue assessment order afresh within a period of six weeks from the date of receipt of copy of this order.

12. The Writ Petition is disposed of on the above terms. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

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dh/pri
Index: Yes/No
Speaking Order/Non Speaking order
NCC: Yes/No



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To

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R.KALAIMATHI.J.,

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