IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.06.2024

CORAM

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.14449 of 2024

Shree Sai Hanuman Smelters Private Limited,
Rep. by its Director, Mr.Jagdish Prasad Khemka ... Petitioner

Versus

1.Senior Intelligent Officer,
Directorate General of Goods and Service Tax,
Intelligence, Chennai Zonal Unit,
No.16 Tower-II, Fifth Floor,
BSNL building Greams Road,
Chennai – 6.

2.State Tax Officer,
Group X Intelligence-II, Chennai-6,
No.1, PAPJM Buildings, Greams Road, Thousand Lights,
Chennai- 600 006.

3.Assistant Commissioner (ST),
No.32, Integrated Commercial Taxes Complex,
Elephant Gate Bridge Road, Vepary, Chennai – 3.

4.The Special Secretary,
Head of the GST Council Secretariat,
Office of the GST Council Secretariat,
5th Floor, Tower-II, Jeevan Bharti Building,
Janpath Road, Connaught Police,
New Delhi – 110 001. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Mandamus, to directing the First Respondent to drop the proceedings initiated under section 67 read with section 70 of Central Goods and Services Tax Act, 2017 (CGST Act) and Tamil Nadu Goods and Services Tax Act 2017 till relevant notifications are issued in this regard pursuant to the recommendations of the Fourth Respondent and until such time, to transfer all the proceedings initiated by the First Respondent to the Third Respondent for taking further action, who is the jurisdictional assessing officer, for taking further action.

For Petitioner	:	Mr. N.V.Balaji
For Respondents	:	Mr. Ramesh Kutty, Senior Standing Counsel, (for R1 & R4)
	:	Mr. V. Prashanth Kiran, Government Advocate (for R2 & R3)

ORDER

By this writ petition, the petitioner seeks a direction to the first respondent to drop the proceedings initiated under Section 67 read with Section 70 of applicable GST enactments.

2. The petitioner received summons dated 29.05.2024 under Section 70 of the Central Goods and Services Tax Act, 2017, (the *CGST Act*),

which was addressed to its Accountant, Mr. Shri Shanmugham. By asserting that the petitioner is a registered person, whose assessment has been allotted to the State Goods and Services Tax (*SGST*) authorities, and not to the CGST authorities, the present writ petition was filed.

3. Learned counsel for the petitioner submits that proceedings were initiated against the petitioner by the SGST authorities and that the petitioner participated in such proceedings. By referring to the Mahazar drawn on 13.05.2024, learned counsel submits that the summons impugned herein was pursuant thereto. By placing reliance on the orders passed by this Court in W.P.No.34792 of 2019 batch, learned counsel points out that it was held therein that the officers of the CGST department should not interfere with assessments assigned to the SGST authorities. According to him, the summons issued by the Senior Intelligence Officer of the CGST department is in breach of this said order.

4. Mr. Ramesh Kutty, learned senior standing counsel, appears on behalf of respondents 1 & 4. Mr. Prashanth Kiran, learned Government Advocate, appears on behalf of respondents 2 & 3.

5. Mr. Ramesh Kutty referred to the impugned summons and Section 70 of the CGST Act and contended that the summons is in relation to proceedings initiated against M/s. GBR. He also points out that Section 70 empowers proper officer? to summon any person whose attendance is considered necessary.

6.At this juncture, it is unclear as to whether the summons' relates to proceedings against M/s. GBR or Shree Sai Hanuman Smelters Private Limited. As correctly contended by learned senior standing counsel, Section 70 of the CGST Act empowers officer? to summon any person whose attendance is necessary in relation to the relevant enquiry.

7. Therefore, a mandamus cannot be issued to restrain the performance of a statutory duty. Indeed, the relief of mandamus is intended to enforce and not restrain performance of statutory duties. However, it is open to the petitioner to respond to the summons and raise all contentions, including the contention that proceedings against the petitioner cannot be initiated by the CGST department on account of the judgment of this Court referred to above.

8. For reasons set out above, the relief claimed in W.P.No.14449 of 2024 cannot be granted. Therefore, the petitioner shall respond to the summons by raising all contentions, including with reference to the judgment in W.P.No.34792 of 2019 batch. In case it turns out that the proceedings relate to the petitioner and not to M/s. GBR, it is also open to the petitioner to initiate appropriate legal proceedings, provided the earlier order of this Court in W.P.No.34792 of 2019 batch continues to hold the field.

9. The Writ Petition is disposed of on the above terms. There shall be no order as to costs.

03.06.2024

Index : No
Speaking Order : Yes
Neutral Case Citation: No

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To

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SENTHILKUMAR RAMAMOORTHY,J

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