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W.P.No.14849 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2024

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

Writ Petition No.14849 of 2024 and
W.M.P.Nos.16106 & 16107 of 2024

Tvl. Anandh Store,
Represented by its Proprietor Durairaj Anandraj,
No.85, New Market 3rd lane,
West Tambaram, Chennai-600 045,
GSTIN:33AFUPA6318N1Z4.

... Petitioner

-VS-

Commercial Tax Officer,
Tambaram, Chengalpattu,
Tamil Nadu.

... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records of the Respondent herein in its impugned proceedings in Order vide FORM GST DRC-07 in GSTIN No. 33AFUPA6318N1Z4 bearing Ref. No ZD331123057198J dated 09.11.2023 for the tax period July 2017 to March 2018 and quash the same.

For Petitioner : Mr.S.Rajendran



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For Respondent : Mr.C.Harsha Raj, Addl. Govt. Pleader (T)

ORDER

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An order in original dated 09.11.2023 is challenged on the ground that such order travelled beyond the scope of the show cause notice. In relation to financial year 2017-2018, proceedings were initiated against the petitioner by issuing show cause notice dated 20.10.2023. The petitioner replied thereto on 28.10.2023 and 06.11.2023. The impugned order was issued in the said facts and circumstances.

2. Learned counsel for the petitioner referred to the show cause notice and pointed out that the petitioner was called upon to show cause with regard to the short fall in Input Tax Credit (ITC) in GSTR 2A, as compared to petitioner's GSTR 3B return to the extent of Rs.6,33,699/-. By contrast, he points out that the confirmed tax proposal under the impugned order is to the extent of Rs.9,34,236/-. He further submits that the comparison between GSTR 2A and 3B should not have been undertaken for the financial year 2017-2018 in as much as the GSTR 2A form had not been prescribed during



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the relevant period.

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3. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice for the respondent. In view of the disparity between the impugned order and show cause notice, he submits that the impugned order may be treated as a show cause notice and the petitioner may be permitted to reply thereto.

4. On comparing the impugned order and the show cause notice, the contention of learned counsel that the impugned order travels beyond the scope of the show cause notice is liable to be accepted. In those circumstances, as submitted by learned Additional Government Pleader, the impugned order may be treated as a show cause notice.

5. For reasons set out above, W.P.No.14849 of 2024 is disposed of by directing that the impugned order dated 09.11.2023 be treated as a show cause notice. The petitioner is permitted to submit a reply in respect thereof within a period of three weeks from the date of receipt of a copy of this



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order. Upon receipt of the petitioner's reply, 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 the petitioner's reply. In view of the assessment order being set aside, the bank attachment is raised.

6. The writ petition is disposed of on the above terms without any order as to costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

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Commercial Tax Officer,
Tambaram, Chengalpattu,
Tamil Nadu.

SENTHILKUMAR RAMAMOORTHY,J



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