



W.P.No.15570 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.06.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

**W.P.No.15570 of 2024**  
**and W.M.P.Nos.16957 & 16960 of 2024**

M/s.Selvaraj Traders,  
Represented by its Proprietor  
Mr.Danushkodi Selvaraj  
No.228, NA, N.M Road,  
Avadi, Chennai 600 054.

... Petitioner

-VS-

The Assistant Commissioner (ST),  
Avadi Assessment Circle,  
1<sup>st</sup> Floor, Room No.124,  
Integrated Commercial Taxes Building,  
Elephant Gate Bridge Road,  
Vepery, Chennai 600 003.

... Respondent

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, to call for the impugned proceedings of the respondent in GSTN: 33AANPS3846D1ZL / 2018-2019 dated 12.09.2023 and the summary of order in Form GST DRC-07 dated 12.09.2023 in Reference No.ZD330923068756X and quash



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the same as passed contrary to the provisions of the CGST Act, 2017 and TNGST Act, 2017 and against the principles of natural justice.

For Petitioner : Mr.P.Rajkumar

For Respondent : Mrs.K.Vasanthamala, GA (T)

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### ORDER

An order dated 12.09.2023 is challenged in this writ petition on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits. The petitioner asserts that he is engaged in the business of purchasing and selling vegetable oil. In relation to such business, it is stated that the petitioner had purchased a goods vehicle and claimed Input Tax Credit (ITC) in respect thereof. Pursuant to show cause notice dated 18.07.2023, impugned order dated 12.09.2023 was issued rejecting the petitioner's claim for ITC on the ground that the purchase falls within the scope of sub-section (5) of Section 17 of applicable GST



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enactments.

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2. Learned counsel for the petitioner submits that the purchase was in furtherance of business. If provided an opportunity, he submits that the petitioner would be able to establish that only eligible ITC was claimed. On instructions, he submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mrs.K.Vasanthamala, learned Government Advocate, accepts notice for the respondent. She submits that principles of natural justice were adhered to by issuing a notice in Form ASMT 10, show cause notice and by issuing reminders for personal hearing. She also points out that the petitioner's reply dated 21.03.2024 is subsequent to the impugned order and was not received by the respondent.



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4. On perusal of the impugned order, it is evident that the tax proposal was in relation to wrongful availment of ITC in respect of the purchase of a motor vehicle on 31.08.2018. In the affidavit, the petitioner asserts that such purchase was in furtherance of business. In these circumstances, it is just and necessary to provide an opportunity to the petitioner to contest the tax demand on merits by putting the petitioner on terms.

5. For reasons aforesaid, impugned order dated 12.09.2023 is set aside on condition that the petitioner remits 10% of the disputed tax demand within *two weeks* from the date of receipt of a copy of this order. Within the said period, the petitioner is permitted to submit a reply to the show cause notice. Upon receipt thereof and on being satisfied that 10% of the disputed tax demand was received, 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.



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**WEB COPY** 6. W.P.No.15570 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.16957 and 16960 of 2024 are closed.

**24.06.2024**

rna

Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

**To**

The Assistant Commissioner (ST),  
Avadi Assessment Circle,  
1<sup>st</sup> Floor, Room No.124,  
Integrated Commercial Taxes Building,  
Elephant Gate Bridge Road,  
Vepery, Chennai 600 003.

**SENTHILKUMAR RAMAMOORTHY,J**

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**and W.M.P.Nos.16957 & 16960 of 2024**

**24.06.2024**