IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **08.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.16481 of 2024
and W.M.P.Nos.18044 & 18045 of 2024

Capstone Industries,
Represented by Pradeep Kumar.B, Partner,
No.4, Om Sakthi Nagar, Bharathi Street,
Chinnavedampatti,
Coimbatore, Tamil Nadu 641 049. ... Petitioner

-vs-

The Assistant Commissioner (ST)(FAC),
Third Floor, Commercial Taxes Buildings,
Dr.Balasundaram Road,
Coimbatore, Tamil Nadu 641 018. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records relating to the impugned order dated 25.03.2024 with the reference no. ZD330324162052Y on the file of the respondent, quash the same.

For Petitioner : Mr.G.Natarajan

For Respondent : Mr.C.Harsha Raj, AGP (T)

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ORDER

By this writ petition, an order dated 25.03.2024 imposing penalty on the petitioner is challenged. The petitioner originally carried on business from Door No.3, Om Sakthi Nagar, Bharathi Street. Since the petitioner had shifted to a new address on the date of inspection on 26.07.2022, the petitioner asserts that the GST registration was cancelled by order dated 01.09.2022. After the application for revocation thereof was rejected, the petitioner filed an appeal and also applied under the amnesty scheme for revocation. Pursuant thereto, by order dated 25.08.2023, the cancellation of GST registration was revoked. These proceedings were initiated thereafter in respect of the mismatch between the petitioner's GSTR 3B returns and the auto populated GSTR 2A as also between the petitioner's GSTR 1 and GSTR 3B returns.

2. Learned counsel for the petitioner referred to the above mentioned sequence of dates and events and thereafter referred to the petitioner's reply to the show cause notice. In spite of the petitioner accepting that the cancellation of the GST registration was revoked upon explaining the petitioner's explanation with regard to the change of address, learned counsel contends that a completely unreasoned order was issued confirming the proposal for imposition of penalty.

3. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice for the respondent. He submits that principles of natural justice were complied and that the petitioner's reply was taken into consideration. He further submits that no case is made out for interference under Article 226.

4. On examining the order, it follows that the petitioner's reply was extracted therein. Thereafter, in relevant part, findings were

recorded as follows:

> *ADJUDICATING AUTHORITIES OBSERVATION.*
>
> *The tax payers reply has been examined and it has been found that they are all after thought replies and not based on any factual grounds. Their reply do not prove that the tax payer was existent at the registered place of business at the time of inspection by intelligence wing officials. Hence the demand proposed in the Show Cause Notice is confirmed as follows.*

TAX PERIOD	*PENALTY DUE*			
	IGST	*CGST*	*SGST*	*TOTAL*
2022-23	*Rs.70.00*	*Rs.3,733.00*	*Rs.3,733.00*	*Rs.7,536.00*

5. On examining the above extract, it is evident that no reasons are recorded for the conclusion that the petitioner's reply is an after thought and that such reply does not establish existence at the registered place of business at the time of inspection. Such conclusions disclose that the explanation of the petitioner with regard to shifting the place of business was not taken into consideration. Since findings were recorded without assigning reasons in support thereof, the impugned order cannot be sustained.

6. For reasons aforesaid, impugned order dated 25.03.2024 is set aside and the matter is remanded for re-consideration. After providing a reasonable opportunity to the petitioner, including a personal hearing, the respondent is directed to issue a fresh order within ***three months*** from the date of receipt of a copy of this order.

7. W.P.No.16481 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.18044 and 18045 of 2024 are closed.

08.07.2024
(6/6)

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Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No

SENTHILKUMAR RAMAMOORTHY,J

rna

To

The Assistant Commissioner (ST)(FAC),
Third Floor, Commercial Taxes Buildings,
Dr.Balasundaram Road,
Coimbatore, Tamil Nadu 641 018.

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and W.M.P.Nos.18044 & 18045 of 2024

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