



W.P.No.16603 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.07.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.16603 of 2024
and W.M.P.Nos.18207 & 18208 of 2024

M/s.M.R.V.Traders
Represented by its Proprietor Sivakumar
No.3/138, Koppanurpudur,
Kappalankarai,
Pollachi 642 120.

... Petitioner

-VS-

The Assistant Commissioner (ST)(FAC)
Pollachi Rural Circle, Commercial Taxes Buildings,
Palghat Road,
Pollachi 642 001.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, calling for the records and quashing the impugned order passed by the respondent bearing reference number GSTIN: 33BBTPS2021N1ZA / 2020-2021 dated 17.08.2023, and consequently directing the



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respondent to release the bank account of the petitioner.

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For Petitioner : Mr.P.Gowtham

For Respondent : Mr.T.N.C.Kaushik, AGP (T)

ORDER

An order in original dated 17.08.2023 is challenged in this writ petition on the ground of non consideration of the petitioner's reply. The petitioner received show cause notice dated 02.11.2022 in respect of alleged wrongful availment of Input Tax Credit for purchases from Mahalakshmi Traders, Pollachi. The petitioner replied to such show cause notice on 08.12.2022. Impugned order dated 17.08.2023 was issued thereafter.

2. Learned counsel for the petitioner submits that the petitioner



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had submitted purchase invoices, e-way bills, bank statements and other documents to establish that the purchase was genuine. Without examining such documents, he submits that Input Tax Credit was reversed. Without prejudice, on instructions, he submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for the respondent. He submits that principles of natural justice were complied with by issuing intimation dated 29.09.2022, show cause notice dated 02.11.2022 and by issuing multiple reminders in respect of personal hearing. He also submits that the claim of Input Tax Credit was rejected because the petitioner failed to establish movement of goods.

4. The impugned order refers to the tax payer's reply to the effect that the purchase bills, transport copies and records for payments were enclosed. Thereafter, the following finding was



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recorded:

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“On verification of records and reply of the tax payer, it has been ascertained that they have not been produced the records for goods movement beyond the doubt, such as, online payment of freight charges, etc. Moreover, it has been proved that Tvl.Mahalakshmi Traders (GSTIN 33BFCPV5507D1ZO) is a bill trader.”

5. The above extract discloses that the respondent did not closely examine the documents submitted by the petitioner, such as invoices, e-way bills, etc. Instead, a conclusion was drawn that the petitioner failed to establish movement of goods. In these circumstances, re-consideration is necessary.

6. For reasons set out above, impugned order dated 17.08.2023 is set aside on condition that the petitioner remits 10% of the disputed tax demand as agreed to within *fifteen days* from the date of receipt of a copy of this order and the matter is remanded for re-consideration. Within the said period, the petitioner is permitted to submit additional documents, if any. Upon receipt of such additional



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documents 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. In view of the assessment order being set aside, the bank attachment is raised.

7. W.P.No.16603 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.18207 and 18208 of 2024 are closed.

09.07.2024

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

SENTHILKUMAR RAMAMOORTHY,J

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To

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The Assistant Commissioner (ST)(FAC)
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