



W.P.No.17577 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.17577 of 2024
and W.M.P.Nos.19364 & 19365 of 2024

M/s.Palanisamy Sumathi,
Proprietor,
Tvl. Oscarr Coconut Oil Industries,
SF No.221/1A, Mottrapalayam,
Keeranur Post,
Tiruppur – 638 701.

... Petitioner

-VS-

The Commercial Tax Officer,
Kangeyam,
Erode.

... 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 bearing Reference ZD330323074141Y



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dated 15.03.2023 passed by the respondent, quash the same.

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For Petitioner : Mr.T.R.Ramesh

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

ORDER

An order dated 15.03.2023 is assailed in this writ petition on the ground that the petitioner's reply was not duly considered. The petitioner received notice dated 21.06.2021 stating that supplies were received by the petitioner from a non-existent supplier. The petitioner replied to such notice on 23.09.2021 and enclosed the relevant invoices, bank statements and GSTR 1, GSTR 2A and GSTR 3B returns. On consideration thereof, further proceedings were dropped by order dated 27.09.2021. Upon receipt of show cause notice dated 15.02.2022 subsequently, the petitioner replied on 24.03.2022 and enclosed relevant documents such as invoices, ledger copies and bank statements. The petitioner also referred to the



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earlier order dropping proceedings upon examining the petitioner's reply. The impugned order was issued in these facts and circumstances.

2. Learned counsel for the petitioner referred to the earlier order dated 27.09.2021 and pointed out that the respondent acknowledged that the transaction was genuine. Since the earlier order dated 27.09.2021 was not taken into consideration while confirming the tax proposal, learned counsel submits that the matter requires re-consideration. On instructions, he submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice for the respondent. By referring to the impugned order, he submits that principles of natural justice were complied with by issuing show cause notice dated 15.02.2022 and by taking



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into consideration the petitioner's reply thereto.

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4. The petitioner has placed on record the order dated 27.09.2021. Such order took note of all documents submitted by the petitioner in response to notice dated 21.06.2021 and dropped further proceedings. Although the petitioner referred to this order in the reply to the show cause notice, the respondent did not take such earlier order into account. It should, however, also be noticed that the petitioner did not submit documents such as lorry receipts or weighment slips to establish movement of goods. In these circumstances, it is just and necessary to put the petitioner on terms.

5. For reasons aforesaid, impugned order dated 15.03.2023 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. Within the said period, the petitioner is permitted to submit an additional reply to the show cause notice and



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enclose all relevant documents. Upon receipt of the petitioner's reply 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 additional reply.

6. W.P.No.17577 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.19364 and 19365 of 2024 are closed.

23.07.2024

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

To

The Commercial Tax Officer,
Kangeyam,
Erode.



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SENTHILKUMAR RAMAMOORTHY,J

rna

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