



WEB COPY



W.P.Nos.18365 & 18392 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2024

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.Nos.18365 & 18392 of 2024
and W.M.P.Nos.20176, 20179, 20198 & 20200 of 2024

In both WPs.

M/s.Kamatchi Stores,
Rep by its Proprietor,
No.160/ 220, Bharathi Salai,
Royapettah, Chennai-14.

... Petitioner

-VS-

The State Tax Officer,
Thiruvallikeni Assessment Circle,
No.571, Room No.421, Fourth Floor,
Integrated CT and R Building,
Anna Salai, Nandanam, Chennai – 35.

... Respondent

Prayer in W.P.No.18365 of 2024: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records of the respondent in his proceedings in GSTIN: 33APLPK4329Q1ZD/2019-2020, quash the order dated 28.02.2024 passed therein.

Prayer in W.P.No.18392 of 2024: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records of the respondent in his proceedings in GSTIN: 33APLPK4329Q1ZD/2018-2019, quash the order dated 28.02.2024 passed therein.



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In both WPs.

For Petitioner : Mr.P.V.Sudakar

For Respondent : Mrs.K.Vasanthamala, Govt. Adv. (T)

COMMON ORDER

By these writ petitions, orders in original dated 28.02.2024 pertaining to assessment periods 2018 – 2019 & 2019 - 2020 are challenged on the ground that tax liability was imposed on a factually erroneous basis. Upon receipt of show cause notices dated 28.07.2023, the petitioner replied on 23.08.2023 and 30.01.2024, respectively. By such replies, the petitioner stated that a sum of Rs.1,58,60,612/- was paid towards cess from and out of the electronic credit ledger. The impugned orders were issued thereafter on 28.02.2024.

2. Learned counsel for the petitioner referred to the petitioner's reply dated 23.08.2023 and to the abstract at page 34 of the typed set. With reference thereto, learned counsel submitted that an aggregate sum of Rs.1,58,60,612/- was paid towards cess as per the details set out therein. By



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referring to the impugned order, learned counsel submits that such order proceeds on the erroneous basis that inward cess of Rs.1,89,09,103/- was reported in the GSTR 3B return at table 4C thereof. By drawing reference to the GSTR 3B return of the petitioner, particularly table 4C thereof, he points out that the amount specified therein is Rs.77,69,979/- and not Rs.1,89,09,103/-. Therefore, he contends that the matter requires reconsideration.

3. Mrs.K.Vasanthamala, learned Government Advocate, who appears on behalf of the respondent, submits that the matter may require reconsideration in view of the above mentioned anomaly.

4. The petitioner has placed on record the GSTR 3B return. Such return specifies a sum of Rs.77,69,979/- in the column pertaining to cess in table 4. The impugned order, on the contrary, specifies that Rs.1,89,09,103/- was reported as inward cess in the GSTR 3B return. On such basis, the respondent arrived at the conclusion that there was short payment of cess on outward supplies to the extent of Rs.31,05,088/-. Since the conclusion



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appears *prima facie* to be based on an erroneous factual assumption, the matter requires reconsideration.

5. For reasons aforesaid, the impugned orders dated 28.02.2024 are set aside and the matters are remanded for reconsideration. After providing a reasonable opportunity to the petitioner, including a personal hearing, the respondent is directed to issue fresh orders within a period of three months from the date of receipt of a copy of this order.

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

26.07.2024

Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

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To

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SENTHILKUMAR RAMAMOORTHY,J

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