IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **16.07.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.18898 of 2024 and
W.M.P.Nos.20750 & 20751 of 2024

M/s.Hajee S M Ahamed and Company,
Represented by its Partner Kadija Saleem,
Ground Floor, 72 Sembudoss Street,
Chennai – 600 001. ... Petitioner

-vs-

1.Deputy State Tax Officer,
Broadway Assessment Circle,
Integrated Commercial Tax Office,
Complex at North Chennai,
Wall Tax Road, Chennai-600 003.

2.Assistant Commissioner (ST),
Broadway Assessment Circle,
No.32 Integrated Commercial Taxes Building,
Elephant Gate Bridge Road,
Vepery, Chennai 600 003.

3. Branch Manager,
M/s. Karur Vysya Bank,
P.B. No. 1980 46 Armenian Street,
Chennai – 600 001. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of

India, to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned Order bearing reference number GSTIN 33AAEFH3630H1ZS/2019-20 dated 19.01.2024 passed by the First Respondent and quash the same and consequently, direct the second respondent to refund the amount recovered from the Petitioner bank account.

For Petitioner : Mr.G.Natarajan

For R1 & R2 : Mrs.K.Vasanthamala, Govt. Adv. (T)

ORDER

An order in original dated 19.01.2024 is the subject of challenge in this writ petition. The petitioner asserts that he was unaware of proceedings culminating in the impugned order because the show cause notice and other communications were uploaded on the GST portal but not communicated to the petitioner through any other mode. It is further stated that the petitioner came to know of the impugned order only on 27.05.2024 upon receipt of a recovery letter from the 2nd respondent.

2. Learned counsel for the petitioner submits that the total tax demand under the impugned order is only about Rs.25,000/-, whereas penalty of

about Rs.1.36 crore was imposed for alleged non generation of e-way bills. By referring to an abstract indicating the total value of e-way bill generation, learned counsel submits that e-way bills for a total value of Rs.6,81,55,597/- were generated. He also points out that a sum of Rs.1,55,300/- was debited from the petitioner's bank account and that this amount not only covers the total tax demand but a portion of the penalty. He seeks another opportunity in these facts and circumstances.

3. Mrs.K.Vasanthamala, learned Government Advocate, accepts notice for respondents 1 & 2. She submits that principles of natural justice were complied with by issuing intimation dated 24.05.2023, show cause notice dated 27.06.2023 and by issuing two reminders.

4. On examining the impugned order, it is evident that substantial penalty was imposed on the basis that the petitioner had generated e-way bills indicating nil value. The petitioner has placed on record details of e-way bills, as downloaded from the GST portal, and also prepared an abstract based on the data derived therefrom. Such abstract indicates that e-way

bills were generated for the aggregate value of Rs.6,81,55,597/- during the relevant period. These facts and circumstances justify a remand especially in view of the petitioner's account being debited to an extent of Rs.1,55,300/- on 19.06.2024.

5. For reasons aforesaid, the order dated 19.01.2024 is set aside and the matter is remanded for reconsideration. The petitioner is permitted to submit a reply to the show cause notice by annexing all relevant documents. Such reply shall be submitted within 15 days from the date of receipt of a copy of this order. Upon receipt thereof, the 1st respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh order within a period of 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.

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

closed.

16.07.2024

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

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To

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