



WEB COPY



W.P.No. 20063 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No. 20063 of 2024

and

W.M.P.No. 21957 and 21958 of 2024

M/s. Bhavana Textiles

Represented by its Proprietor Mr.Shaithan Singh Jogender Singh

414-B, BKR Building, N.H.Road,

Coimbatore – 641 001.

...Petitioner

Versus

The Assistant Commissioner

Big Bazaar Street Assessment Circle

2nd Floor, Commercial Taxes Building,

Dr. Balasundaram Road

Coimbatore – 641 018.

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of

India, praying for the issuance of Writ of Certiorarified Mandamus calling

for records culminating in the Order dated 19.10.2023 passed by the

respondent with Reference No. ZD3310231231067 and quash the same.



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For Petitioner : Mr.Athiban Vijay
For Respondent : Mr.T.NC.Kaushik
Additional Government Pleader

ORDER

Though the present Writ Petition has been filed challenging the order dated 19.10.2023 on the short ground that the impugned order traverses beyond the show cause notice as would be evident from the fact that the petitioner was issued a show cause notice proposing to levy tax to the extent of Rs.33,36,131.20. However, the impugned order has been passed levying tax of Rs.2,38,29,514.00. It is submitted that the impugned order results in levying tax in excess of tax proposed in the Show Cause Notice and thus hit by Section 75(7) of the Sales Tax Act.



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2. The following extracts from the Show Cause Notice and the impugned order would make the above position clear and thus extracted hereunder:-

Summary of Show Cause Notice dated 13.09.2023...

Sr. No	Tax Rate (%)	Turnover	Tax Period		Act	POS (Place of Supply)	Tax	Int	Penalty	Fee	Others	Total
1	2	3	4	5	6	7	8	9	10	11	12	13
1	14	56,73,695.00	JUL 17	Mar -18	CGST	NA	7,94,317.30	7,94,317.30	79,431.00	0.00	0.00	16,68,065.60
2	14	56,73,696.00	JUL 17	Mar -18	SGST	NA	7,94,317.30	7,94,317.30	79,431.00	0.00	0.00	16,68,065.60
Total							15,88,634.60	15,88,634.60	1,58,862.00	0.00	0.00	33,36,131.20

Summary of the order impugned order dated 19.10.2023...

Sl.	Tax Rate	Turn over	Tax Period		Act	POS Place of Supply	Tax	Interest	penalty	Fee	Ors	Total
			From	To								
1	2	3	Jul 2017	Mar 2018	6	7	8	9	10	11	12	13
1	0	0.00	Jul 2017	Mar 2018	CGST	NA	56,73,694.00	56,73,694.00	5,67,369.00	0.00	0.00	1,19,14,757.00
2	0	0.00			SGST	NA	56,73,694.00		5,67,369.00	0.00	0.00	1,19,14,757.00
Total							1,13,47,388.00	1,13,47,388.00	11,34,738.00	0.00	0.00	2,38,29,514.00



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Sl.	Tax Rate	Turn over	Tax Period		Act	POS Place of Supply	Tax	Inter est	penal ty	Fee	Ors	Total
			From	To								
								88.00	00			

3. On this being pointed out, the learned Counsel for the respondent would submit that they would redo the assessment after affording an opportunity of personal hearing to the petitioner.

4. In view thereof, the impugned order dated 19.10.2023 passed by the respondent is set aside. Liberty is granted to the respondent to issue fresh notice and thereafter, proceed to make an assessment in accordance with law.

5. Pursuant to the impugned order is set aside. Recovery proceedings were initiated and based on the above recovery proceedings, the bank attachment shall stand lift it.

12.11.2024

Index : Yes/No

Internet : Yes/No

Speaking Order : Yes/No



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Neutral Citation : Yes/No
MSM

To

The Assistant Commissioner
Big Bazaar Street Assessment Circle
2nd Floor, Commercial Taxes Building,
Dr. Balasundaram Road
Coimbatore – 641 018.



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MOHAMMED SHAFFIQ, J

MSM

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