



W.P.No.20768 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.20768 of 2024 &
W.M.P.Nos.22718 & 22720 of 2024

Sikanthar Jaheer Hussain,
Proprietor,
M/s.Fathima Traders,
No.7, Police Patrol road,
Shevapet, Salem - 636 002.

...

Petitioner

Vs.

The Assistant Commissioner,
Sevapet, Salem - 1,
Salem.

...

Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records on the files of the respondent in reference no.ZD330124131682U dated 29.01.2024 being order under section 73 and summary of the order in Form GST DRC-07 in reference no.ZD330124131682U dated 29.01.2024, and quash the same.

For Petitioner : Mr.V.Srikanth

For Respondent : Mr.V.Prashanth Kiran
Government Advocate (Taxes)



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ORDER

This Writ Petition has been filed by the petitioner to quash the impugned order dated 29.01.2024 passed by the respondent.

2. Mr.V.Prashanth Kiran, learned Government Advocate (Taxes) takes notice on behalf of the respondent.

3. By consent of the parties, the main Writ Petition is taken up for disposal at the admission stage itself.

4. The learned counsel for the petitioner would submit that the show cause notice was issued by the respondent and thereafter, the petitioner handed over the same to the Accountant and instructed him to file reply to the respondent. However, the Accountant failed to file the reply before the concerned authorities. So, all these facts came to light at the end of June 2024, after receiving a phone call from the respondent. While so, without providing any opportunity to the petitioner, the respondent passed the impugned order, demanding the payment of GST for a sum of Rs.14,36,344/- for the assessment year 2018-2019, which is in violation of the principles of natural justice.



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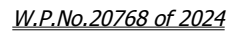
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5. On the other hand, the learned Government Advocate (Taxes) would submit that the show cause notice was issued on the petitioner but he had not filed any reply. Under these circumstances, the respondent has passed the impugned order. He would further submit that in the event this Court is inclined to set aside the order, the same may be considered subject to the payment of 15% of the disputed tax.

6. In reply, the learned counsel for the petitioner would fairly submit that the petitioner is now ready and willing to pay 10% of the demand (Rs.14,36,344/-) made by the respondent in the event of providing an opportunity to them to file their reply/objections along with the required documents to substantiate their claim, for which, the learned Government Advocate (Taxes) has no serious objection.

7. I have considered the rival submissions made by the learned counsel on either side.

8. It is not the case of the petitioner that the show cause notice was issued but no reply was filed by them. The reason assigned by the petitioner was that immediately after receipt of the show cause notice, they



(i) The order impugned herein is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay a sum of Rs.13,46,566/- (10% of demand) to the respondent within a period of four weeks from the date of receipt of a copy of this order and the setting aside of the impugned order will take effect from the date of payment of the said amount.

(iii) On filing of such reply/objection by the petitioner, the respondent is directed to issue notice for passing orders, if any, with 14 days clear notice and thereafter, pass orders on merits and in accordance with law, after providing an opportunity of personal hearing to the petitioner, as expeditiously as possible.



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9. Accordingly, the Writ Petition is disposed of. There is no order as to costs. Consequently, the connected Miscellaneous Petitions are closed.

09.08.2024

Speaking/Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

sri

To

The Assistant Commissioner,
Sevapet, Salem - 1,
Salem.



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KRISHNAN RAMASAMY.J.,
sri

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