IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2024

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.21740 of 2024
and
W.M.P. No. 23711 of 2024

S.Srinivasan ... Petitioner

Vs

1. The State of Tamil Nadu,
   Rep.by its Secretary,
   Commercial Taxes and Registration Department,
   The Secretariat, Fort St. George,
   Chennai – 600 009.

2. The Principal Secretary/Commissioner of Commercial Taxes,
   Ezhilagam,
   Chepauk, Chennai – 600 005. ... Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records in connection with the impugned order bearing reference Proc. No. CD2/5566023/2023-II, dated 12.09.2023 issued by the second respondent and quash the same and further direct the respondents to reinstate the petitioner in any other post.

For Petitioner : Mr. K.Krishnamoorthy

For Respondents : Mr. Nanmaran
Special Government Pleader (Taxes)

O R D E R

With the consent of both sides, this Writ Petition has been taken up for disposal at the admission stage itself.

2. The Writ Petition has been filed challenging the order of suspension dated 12.09.2023, which suspended the petitioner from service.

3. The petitioner was appointed as Junior Assistant in the State Tax Appellate Tribunal on 07.11.1996. Thereafter, he was promoted to Assistant and then to Deputy Commercial Tax Officer, and later to the post of State Tax Officer. While that was so, in March 2023, one Prabhat Singh applied for registration under the Goods and Services Tax Act, requesting authentication of his Aadhar card, as per Rules 8 and 9 of the Central Goods and Services Tax Rules, 2017. He furnished the required documents, and upon receipt, registration was to be issued within 7 days of authentication.

The petitioner registered the application and thereafter, he was placed under suspension on 12.09.2023, alleging that he had issued registration to Prabhat Singh without verifying the report submitted by the State Tax Officer who conducted the field survey. In view of the above, Prabhat Singh, representing Pomax Overseas, was directed to refund Rs.2,64,36,520/-. Later, it was found that the dealer to whom the refund was issued was a fake dealer, resulting in a heavy loss caused by the petitioner.

4. That apart, by G.O. (D) No. 145, Commercial Taxes and Registration (A2) Department, dated 08.05.2024, it was recommended to the Vigilance and Anti-Corruption Department to register a First Information Report, and the relevant portion is extracted hereunder:-

> "*4. The Commissioner of Commercial Taxes has also stated that based on the input received from the Principal Commissioner, Customs (Preventive), Bihar, Verification has been conducted by the Intelligence Divisions of Commercial Taxes Department and revealed that the following exporters are bogus and details of fake traders, refund details, jurisdiction of the Registration Certificate issuing*

authority and Registration Certificate (RC) issued and Refund sanctioned authority are as follows:-

Sl. No	*Goods and Services TIN*	*Trade name (M/s)*	*Legal Name*	*Division/ Circle*	*Registration Certificate issued by*	*Refund sanctioned by*	*Refund issued (In Rs.)*
1.	*33LRSPS7942D2ZO*	*Pomax Overseas*	*Prabhat Singh*	*South/Saidapet Average revenue per month Rs.5 Crores (Approximate)*	*Thiru. Srinivasan, Assistant Commissioner (Full Additional Charge)*	*Tmt. Lalithambigai State Tax Officer*	*2,64,36,520/-*
2.	*33BSGPP7813R3ZZ*	*Prasad Enterprises*	*Chandran Prasad*	*South/Saidapet Average revenue per month Rs.5 Crores (Approximate)*	*Tmt. Lalithambigai, State Tax Officer*	*Tmt. Lalithambigai State Tax Officer Thiru. Srinivasan, Assistant Commissioner (Full Additional Charge)*	*4,61,84,858/-*
3.	*33DNJPB7751J1ZV*	*Unique International*	*Bishal Kumar Bhayana*	*Tiruvallur/ Tiruvallur Average revenue per month Rs.7 Crores (Approximate)*	*Thiru. Babuji, State Tax Officer*	*Thiru. Babuji, State Tax Officer*	*6,94,89,983/-*
4.	*33CBLPR3726G1ZJ*	*Rakesh Impex*	*Rakesh Kumar Ray*	*Tiruvallur/ Tiruvallur Average revenue per month Rs.7 Crores (Approximate)*	*Tmt. Sivakumari, Assistant Commissioner*	*Thiru. Babuji, State Tax Officer*	*11,13,98,246/-*
5.	*33HYOPM9730E4ZY*	*Royal Impex*	*Naren Mallik*	*Vellore/Vellore (South) Tiruvallur/ Tiruvallur Average revenue per month Rs.2 Crores (Approximate)*	*Tmt. Sivakumari, Assistant Commissioner*	*Tmt. Sivakumari, Assistant Commissioner*	*2,24,34,516/-*
							27,59,44,123/-

5. The Commissioner of Commercial Taxes had conducted the Preliminary Enquiry and found that following departmental officials have compromised with their official duties and prima facie reveals lapse on the part of the Goods and Services

Tax Officials in the issuance of Registration without proper verification and in showing undue haste in sanctioning of Refund claims to the said 5 fake exporters and they were suspended from service:-

1.	*Tmt. S.Sivakumari, Assistant Commissioner (State Taxes), Vellore (South) Assessment Circle, Vellore Division*
2.	*Tmt. S.Lalithambigai, State Tax Officer, Saidapet Assistant Circle, South-II, Chennai (South) Division*
3.	*Thiru. S.Srinivasan, State Tax Officer, Saidapet Assistant Circle, South-II, Chennai (South) Division*
4.	*Thiru A.R.Babuji, State Tax Officer, Tiruvallur Assessment Circle, Tiruvallur Division*

6. The Commissioner of Commercial Taxes has therefore requested the Government to accord sanction to the appropriate investigation authority for conducting a detailed inquiry against Tmt. S.Sivakumari, Assistant Commissioner (State Taxes) Vellore (South) Assessment Circle, Vellore Division and 3 others who were involved in sanctioning of refund claims to the 5 fake exporters.

7. The Government after careful examination of the circumstances reported by the Commissioner of Commercial Taxes in his letter second read above, the connected documents and *records and statement of witnesses placed before the Government with reference to the case on hand, hereby accord sanction to the Directorate of Vigilance and Anti-Corruption, to institute a detailed Inquiry against Tmt. S.Sivakumari, Assistant Commissioner (State Taxes) Vellore (South) Assessment Circle, Vellore Division and 3 others by considering the magnitude of the money transaction, huge refund claim made by fake exporters and clear involvement of department officials in the process of refund to the fake exporters.*

8. The Directorate of Vigilance and Anti-Corruption, the State of Tamil Nadu shall send its report to the Government in due course. The Commissioner of Commercial Taxes shall render necessary assistance and provide the departmental inputs to the authority for facilitating the conduct of detailed inquiry."

5. Under these circumstances, the order of suspension cannot be revoked, and if the petitioner is allowed to join duty, he may tamper with material evidence. Therefore, this Court finds no infirmity or illegality in the order passed by the second respondent.

6. In the result, this Writ Petition is dismissed. However, the respondents are directed to complete the disciplinary proceedings against the petitioner within a period of six months from the date of receipt of a copy of this order. Consequently, the connected Miscellaneous Petition is closed. No costs.

31.07.2024

Index:Yes/No
Neutral Citation/Yes/No
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To

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   Commercial Taxes and Registration Department,
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   Chennai – 600 009.

2. The Principal Secretary/Commissioner of Commercial Taxes,
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G.K.ILANTHIRAIYAN, J.

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