IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.08.2024

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.Nos.20777 & 20959 of 2024 &
W.M.P.Nos.22729, 22733, 22915 & 22916 of 2024

M/s Kamatchi Stores,
Represented by its Proprietor,
No.160/220, Bharathi Salai,
Royapettah, Chennai - 600 014. ... Petitioner
[in both W.Ps]

Vs.

The State Tax Officer,
Thiruvallikeni Assessment Circle,
No.571, Room No.421, Fourth Floor,
Integrated CT & R Building,
Anna Salai, Nandanam,
Chennai - 600 035. ... Respondent
[in both W.Ps]

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the respondent in his proceedings in GSTIN: 33APLPK4329Q1ZD/2020-2021 and 2021-2022 quash the orders dated 28.02.2024 respectively.

For Petitioner : Mr.P.V.Sudakar
[in both W.Ps]

For Respondent : Mrs.K.Vasanthamala
[in both W.Ps] Government Advocate (Taxes)

COMMON ORDER

These Writ Petitions have been filed by the petitioner to quash the impugned orders dated 28.02.2024 passed by the respondent.

2. Mrs.K.Vasanthamala, learned Government Advocate (Taxes) takes notice on behalf of the respondent.

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

4. The learned counsel for the petitioner would submit that the petitioner is a small trader. He used to buy biscuits from the distributors and thereafter, sell them. In the course of business, he purchased biscuits from the supplier and due to the mismatch between GSTR-3B and GSTR-2A, the present assessment orders came to be passed. He would further submit that he had all evidence to establish that he had purchased the goods from the supplier. He has all tax invoices and delivery challans, etc. He would submit that he has received the show cause notice and filed his reply. However, he had not filed all the documents in a proper way. Therefore, he requested that if some more opportunity may be provided, he can establish his case and set right the mismatch between GSTR-3B and GSTR-2A.

5. On the other hand, the learned Government Advocate (Taxes) would submit that this is not the case no notice was served on the petitioner, but in the present case notices were served and it were received and replies were also filed. Therefore, in the event this Court is inclined to set aside the order, the same may be considered subject to the payment of 25% 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 15% of the demand (Rs.16,23,854/- for the assessment year 2020-21 and Rs.2,17,632/- for the assessment year 2021-22 respectively) made by the respondent in the event the orders are set aside and remit the matters for reconsideration, 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. No doubt, the petitioner is a small trader and he had received goods from the suppliers and due to the mismatch between GSTR-3B and GSTR-2A, the assessment orders came to be passed. The contention of the petitioner was that he had not filed reply in a proper way by furnishing all the documents. Therefore, if one more opportunity is provided to the petitioner, he will establish his case by furnishing all the documents before the authorities concerned.

9. Having regard to the admitted fact that the impugned orders came to be passed without hearing the petitioner in violation of the principles of natural justice, and also considering the submissions made by the learned counsel on either side, this Court passes the following order:-

> **(i)** The orders impugned herein are set aside and the matters are remanded to the respondent for fresh consideration on condition that the petitioner shall pay a sum of Rs.16,23,854/- and Rs.2,17,632/- respectively (15% 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 orders will take effect from the date of payment of the said amount.
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> **(ii)** The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks thereafter.
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> **(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.

10. Accordingly, the Writ Petitions are 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

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To

The State Tax Officer,
Thiruvallikeni Assessment Circle,
No.571, Room No.421, Fourth Floor,
Integrated CT & R Building,
Anna Salai, Nandanam,
Chennai - 600 035.

KRISHNAN RAMASAMY.J.,

sri

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