



WEB COPY



W.P.No.21557 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.21557 of 2024 &
W.M.P.Nos.23522 & 23523 of 2024

Tvl.Heera Traders,
Represented by its Proprietor, Mr.Ramappa Muniraj,
2/360/7/8, Krishnagiri Road,
Kamandoddi,
Hosur, Krishnagiri - 635 109.

... Petitioner

Vs.

The Assistant Commissioner (ST) (FAC),
Hosour (North-2),
Commercial Tax Building 3rd Floor,
Seetharam Nagar, Bangalore Road,
Near Old Bus Stand, Hosur - 635 109.

... 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 of the impugned order under Section 73 dated 31.12.2023 having reference No.ZD331223287206K passed by the respondent, and quash the same.

For Petitioner : Mr.S.Anandh

For Respondent : Ms.Amirta Poonkodi Dinakaran
Government Advocate (Taxes)

ORDER



W.P.No.21557 of 2024

The petitioner has filed this writ petition challenging the order dated 31.12.2023 passed by the respondent.

2.The learned counsel appearing for the petitioner submits that the show cause notice in Form DRC-01, proposing to levy tax on 16 issues, was issued on 29.09.2023. However, the summary of the show cause notice in Form GST DRC-01, as required by Rule 142, was not served on the petitioner. Yet, the petitioner filed a reply to the show cause notice on 02.11.2023, furnishing explanations for all 16 issues. Subsequently, the respondent, through the order dated 31.12.2023, dropped 9 issues raised in the show cause notice and confirmed the remaining 7 issues, without giving any reasoning and merely stating that the reply filed by the petitioner was "not acceptable". Hence, the learned counsel prays for setting aside the said order passed by the respondent as it fails to adhere to the procedural requirements and lacks of sufficient reasoning.

3.On the other hand, the learned Government Advocate (Taxes), supporting the order passed by the respondent, submits that the petitioner is having the alternative remedy of appeal as against the order impugned herein. Hence, the learned counsel prayed for dismissal of this writ petition.



W.P.No.21557 of 2024

WEB COPY

4. Heard both sides and perused the records.

5. It is not in dispute that by the order impugned herein, the respondent dropped 9 issues raised in the show cause notice and confirmed the remaining 7 issues. The primary contention of the learned counsel for the petitioner is that the respondent did not provide any reason for confirming the 7 issues and the order merely states that the petitioner's reply is "not acceptable".

6. This court is not inclined to agree with the above submission of the learned counsel for the petitioner. It is evident from the order impugned herein that the respondent has provided an opportunity to the petitioner to file their reply to all the issues raised and the findings were rendered after analysing the reply given by the petitioner and based on the audit report. Hence, there is no procedural infirmity in the order so passed by the respondent, warranting interference.

7. However, the petitioner is at liberty to file an appeal before the appellate authority to challenge the order passed by the respondent, if so advised, within a period of four weeks from the date of receipt of a copy of this order. In the event of filing an appeal within the said period, the



W.P.No.21557 of 2024

appellate authority shall entertain the same, without raising any issue on limitation aspect, consider and pass appropriate orders, on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner, as expeditiously as possible.

8.Accordingly, the writ petition is disposed of. There is no order as to costs. Consequently, connected miscellaneous petitions are closed.

12.08.2024

Speaking/Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

r n s



W.P.No.21557 of 2024

To

The Assistant Commissioner (ST) (FAC),
Hosour (North-2),
Commercial Tax Building 3rd Floor,
Seetharam Nagar, Bangalore Road,
Near Old Bus Stand, Hosur - 635 109.



WEB COPY



W.P.No.21557 of 2024

KRISHNAN RAMASAMY.J.,
r n s

W.P.No.21557 of 2024 &
W.M.P.Nos.23522 & 23523 of 2024

12.08.2024