IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.08.2024

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.25035 of 2024 &
W.M.P.Nos.27374 & 27375 of 2024

TVL.Oswal Trade Links,
Represented by its Proprietor Darsha Lodha,
No.49, Audiappa Naicken Street,
Sowcarpet, Chennai - 600 079. ... Petitioner

Vs.

1.The Deputy Commercial Tax Officer II,
Peddunaickenpet Assessment Circle,
Chennai North Division,
No.32, Elephant Gate Bridge,
Chennai - 600 003.

2.The Joint Commissioner (ST),
Chennai (North),
Integrated Commercial Tax Office Complex
at North Chennai,
Wall Tax Road, Chennai - 600 003.

3.The Superintendent,
Officer of the Principal Commissioner of CGST &
Central Excise Chennai North,
Room No.205, GST Bhawan, 26/1,
Mahatma Gandhi Road, Nungambakkam,
Chennai - 600 034. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to quash the impugned order dated 13.05.2024 bearing Ref.No.ZD330524081799W for FY 2018-19 for GST:33CSWPD2697C1ZJ, issued under Section 74 of the TNGST Act, 2017 by the first respondent and consequently direct the first respondent to drop all related proceedings.

For Petitioner : Mr.M.Velmurugan

For Respondents : Mr.C.Harsha Raj
Additional Government Pleader (Taxes)
for R1 and R2

Mr.M.Santhanaraman
Senior Standing Counsel for R3

ORDER

The writ petition has been filed to quash the order dated 13.05.2024 issued by the first respondent under Section 74 of the TNGST Act, 2017 and for a direction to the first respondent to drop all related proceedings.

2. The learned counsel for the petitioner would submit that the petitioner duly filed its returns, especially, Form GSTR-3B and Form GSTR-9, without any errors attributable to them. However, the third respondent viz.,

Superintendent, Office of the Principal Commissioner of CGST & Central Excise, seized documents during an inspection on 24.08.2020, including purchase invoices, sales invoices, and e-way bills. Despite the petitioner's full co-operation and submission of all the necessary documents, the first respondent confirmed the audit objection solely due to the absence of these seized documents and passed the order dated 25.04.2024. The learned counsel further submits that the first respondent has already passed a comprehensive order dated 25.04.2024 for the financial year 2018-19, which was challenged by the petitioner by filing a writ petition in W.P.No.22590 of 2024 and the same is pending. However, the first respondent passed the impugned order on 13.05.2024 subsequently for the same assessment year, without invoking any special provision of the TNGST Act, which is barred by the principle of *res judicata*. However, the learned counsel submits that the petitioner is ready and willing to pay 10% of the disputed tax as assessed by the respondent, in the event of an opportunity being given to them to substantiate their claim by filing reply along with documentary evidence.

3. On the above submissions, I have heard the learned Additional Government Pleader (Taxes) appearing for the first and second respondents and the learned Senior Standing Counsel appearing for the third respondent.

4. It is evident from the order impugned herein that the first respondent without considering the reply submitted by the petitioner, has passed the order, demanding tax for the assessment year in question. Therefore, this court is inclined to remand the matter to the first respondent for fresh consideration, subject to payment of 10% disputed tax by the petitioner.

5. In such view of the matter, this writ petition stands disposed of in the following terms:

> (i) The order impugned herein is set aside and the matter is remanded to the first respondent for fresh consideration on condition that the petitioner shall pay 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.
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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 first respondent shall consider the same after issuing a 14 days clear notice by fixing the date of personal hearing and thereafter pass appropriate orders on

merits and in accordance with law, as expeditiously as possible.

Consequently, connected miscellaneous petitions are closed. There is no order as to costs.

30.08.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No

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To

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KRISHNAN RAMASAMY.J.,
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