



W.P.No.24226 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.24226 of 2024 &
W.M.P.Nos.23474 and 26475 of 2024

Chandra Sekar
Sole Proprietor of Tvl.C.V.Consultants &
Engineers,
Aged 58 years,
No.15B, First Floor, 10th Street,
Kamaraj Nagar, Korattur,
Chennai-600080.

... Petitioner

Vs.

The Assistant Commissioner (ST),
Korattur Assessment Circle,
No.332, 3rd Floor,
Integrated Commercial Taxes Building,
Nandanam,
Chennai- 600 034.

...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records in the impugned order levying tax u/s.73 of TNGST Act, 2017 in Reference No.ZD331223227555N dated 27.12.2023 along with Summary of the



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Order dated 27.12.2023 on the file of the Respondent relating to the F.Y.:2017-18 and quash the same.

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For Petitioner : Mr.I.Dinesh

For Respondent : Ms.Amirthapoonkodi Dinakaran
Government Advocate (Taxes)

ORDER

This writ petition has been filed by the petitioner challenging the the impugned order, levying tax u/s.73 of TNGST Act, 2017 in Reference No.ZD331223227555N dated 27.12.2023 along with Summary of the Order dated 27.12.2023 on the file of the Respondent relating to the F.Y.:2017-18 and to quash the same.

2. Ms.Amirtha Poonkodi Dinakaran, 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.



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4. Heard both sides.

5. The learned counsel for the petitioner submits that though the Respondent initially issued a Show Cause Notice dated 29.09.2023 to the Petitioner, proposing to levy the tax along with interest and penalty to the tune of Rs.54,755.10/-, subsequently the impugned order along with summary order came to be passed on 27.12.2023, demanding a sum of Rs.16,91,985.18/-, which is grossly disproportionate when compared to the show cause notice and is, therefore, arbitrary, illegal and liable to be set aside. However, the learned counsel for the Petitioner submitted that the petitioner is now ready and willing to pay 10% of the demand made by the respondent in the event of providing an opportunity to them to file their reply along with the required documents to substantiate their claim, for which, the learned Additional Government Pleader (Taxes) has no serious objection. The petitioner pleads the said payment is without prejudice to their rights to challenge the impugned order in toto.



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6. In view of the clear discrepancy in the impugned orders and as the Petitioner is willing to deposit 10% of the tax demand, this court passes the following order:-

(i) The orders impugned herein is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner, without prejudice to his rights and contentions to challenge the impugned demand in entirety, shall deposit 10% of the disputed tax 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.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks thereafter.

(iii) On filing of such reply/objection by the petitioner, the respondent shall consider the same and issue a 14 days clear notice by fixing the date of personal hearing to the petitioner and thereafter, pass appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.



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

19.08.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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KRISHNAN RAMASAMY.J.,

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To

The Assistant Commissioner (ST),
Korattur Assessment Circle,
No.332, 3rd Floor,
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Chennai- 600 034.

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