



WEB COPY



W.P.No.26893 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2024

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.26893 of 2024

and

W.M.P.Nos.29419, 29420 and 29422 of 2024

Tvl. R. Selvarathinam
Rep. by its Authorized Signatory,
Mr.S.Jegadeesan.

...Petitioner

Vs.

The Deputy State Tax Office -II,
Villivakkam Assessment Circle,
Nos.15 & 16, 100 feet Road,
Malligai Avenue,
Kolathur, Chennai – 600 099.

...Respondent

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for records of the order of the respondent in Form GST DRC-07 with reference no. ZD3304242588456 dated 30.04.2024 passed under Section 61, 73 and 50 of the TNGST Act 2017 and quash the same as illegal devoid of merits



W.P.No.26893 of 2024

and in violation of principles of natural justice and consequently restraining the respondent from recovering the tax liability including interest and penalty from the petitioner's bank account.

For Petitioner : Mr.M.Varun Pandian

For Respondent : Mr.C.Harsha Raj
Additional Government Pleader (T)

Order

With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

2. The challenge in this Writ Petition is to the order dated 30.04.2024 passed by the respondent under Sections 61, 73 and 50 of the TNGST Act 2017 and to quash the same and consequently, to restrain the respondent from recovering the tax liability, including interest and penalty from the petitioner's bank account.

3. Mr.M.Varun Pandian, learned counsel for the petitioner would submit that the petitioner has been issued with a show cause notice in Form



W.P.No.26893 of 2024

GST DRC-01 dated 21.08.2023, to which, the petitioner filed their replies on 12.04.2024, 26.04.2024 and 29.04.2024, however, the respondent, without considering those replies in a proper perspective, passed the impugned order dated 30.04.2024 and in pursuance of the said impugned order, also initiated recovery proceedings dated 02.08.2024 and recovered a sum of Rs.5,35,346 from the petitioner's bank account, which necessitated the petitioner to file the present Writ Petition.

4. The learned counsel would submit that challenging the impugned order, the petitioner has preferred an Appeal dated 28.08.2024 and the said Appeal is yet to be disposed of, however, irrespective of the same, the respondent proceeded with the recovery proceedings. Therefore, the learned counsel prayed for appropriate orders.

5. Mr.C.Harsha Raj, the learned Additional Government Pleader (T) who takes notice on behalf of the respondent submitted that since the Writ Petition is coming up for admission today, he has no instructions as regards the status of the Appeal filed by the petitioner, however, he submitted that in



W.P.No.26893 of 2024

terms of the provisions of the TNGST Act, once the assessment order is passed by the Adjudicating Authority (respondent herein) and any amount is to be recovered from the assessee(petitioner in this case) the proper officer has to initiate recovery proceedings if the assessee does not pay the said amount within three months from the date of service of such order. Thus, by averring so, the learned Additional Government Pleader (T) justified the act of the respondent in initiating the recovery proceedings, which is in fact in pursuance to the impugned order.

6. I have given due considerations to the submissions made on either side and perused the materials available on record.

7. Though the petitioner has filed this Writ Petition challenging the order dated 30.04.2024, challenging the very same order dated 30.04.2024, the petitioner has also filed an Appeal before the Appellate Authority, therefore, certainly, the petitioner has to pursue his remedy via. Appeal before the Appellate Authority, in accordance with law. However, taking into considering of the fact that in pursuance of the impugned order



W.P.No.26893 of 2024

dated 30.04.2024, the petitioner has been initiated with recovery proceedings, this Court is inclined to disposed of the Writ Petition with the following directions;-

i The respondent is directed to defer the recovery proceedings till the disposal of the Appeal filed by the petitioner dated 28.08.2024.

8. In the result, this Writ Petition is disposed of accordingly. No costs. Consequently, connected W.M.P.No.29419 of 2024, viz, the Dispense With Petition is ordered and W.M.P.Nos.29420 and 29422 of 2024, the Injunction and Stay Petitions respectively are closed.

11.09.2024

sd

Index : yes/no

Neutral Citation : yes/no



W.P.No.26893 of 2024

To
The Deputy State Tax Office -II,
Villivakkam Assessment Circle,
Nos.15 & 16, 100 feet Road,
Malligai Avenue,
Kolathur, Chennai – 600 099



WEB COPY



W.P.No.26893 of 2024

Krishnan Ramasamy,J.,

sd

W.P.No.26893 of 2024

11.09.2024