



W.P.Nos.27647 & 27654 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.09.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.Nos.27647 & 27654 of 2024
& W.M.P.Nos.30167 to 30169, 30172 & 30174 of 2024

Sri Shakti Tex,
Represented by its Proprietor,
K.Dhanasekaran,
170, Chinnapampatty Main Road,
Pappapady Kattuvalavu,
Edangana Salai,
Salem 635 502.

... Petitioner in both petitions

Vs.

1.The Superintendent of GST & Central Excise,
Mettur II Range,
D.No.16/1, First Floor, Mettur Main Road,
Omalur 636 502.

2.The Assistant Commissioner,
Salem II Division,
GST Bhawan, No.1, 3rd Floor,
Foulkes Compound,
Anaimesdu, Salem 636 001.

... Respondents in both petitions



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Common Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records on the files of the respondent herein in Order-in-Original No.01/2022 (2018-19)-GST-SUPDT dated 14.12.2022 and quash the same.

For Petitioner
in both petitions : Mr.N.Chandirasekar

For Respondent
in both petitions : Mr.M.Santhanaraman,
Senior Standing counsel

COMMON ORDER

These writ petitions have been filed challenging the impugned order dated 14.12.2022 passed by the respondent.

2. Mr.M.Santhanaraman, learned Senior Standing counsel, takes notice on behalf of the respondents. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.



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3. The learned counsel for the petitioner would submit that in the present case, the show cause notice was issued by the respondent on 31.05.2022 for wrong availment of the input tax credit. Upon receipt of the said notice, the petitioner had filed their reply and also participated in the personal hearing conducted by the respondent. Subsequently, the impugned order came to be passed by the respondent on 14.12.2022.

4. Further, he would submit that pursuant to the impugned order, the recovery proceedings were initiated by the respondent vide notice dated 18.04.2024 and hence, he requests this Court to pass appropriate orders to set aside the aforesaid impugned order.

5. The learned Senior Standing counsel appearing for the respondent would submit that after providing sufficient opportunities to the petitioner, the impugned assessment order came to be passed by



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the respondent on 14.12.2022, in which case, the issue of violation of principles of natural justice will not arise.

6. Further, he would submit that if the petitioner is aggrieved over the assessment order, he is supposed to have filed an appeal before the concerned Appellate Authority, however, in the present case, without filing any such appeal within the period of limitation, the petitioner is preferring this petition after the issuance of recovery notice. Hence, he requests this Court to dismiss the present petition.

7. Heard the learned counsel for the petitioner and the learned Senior Standing counsel appearing for the respondents and also perused the materials available on record.

8. In the present case, it appears that the impugned order dated 14.12.2022 came to be passed by the respondent after providing sufficient opportunities to the petitioner, viz., filing of reply, participating in the personal hearing, etc., and hence, the aspect of



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violation of principles of natural justice would not arise. Pursuant to the said impugned order, the recovery proceedings were initiated by the respondent vide notice dated 18.04.2024.

9. Further, it appears that though the impugned assessment order was passed on 14.12.2024, the petitioner had not filed any appeal challenging the same for nearly a period of 18 months. In such case, it is clear that the petitioner has approached this Court, vide the present petitions, only due to the issuance of aforesaid recovery notice. When such being the case, this Court does not find any merits in the present petitions.

10. Therefore, this Court is inclined to dismiss the present petitions with liberty to the petitioner to file an appeal against the impugned assessment order.

11. Accordingly, these writ petitions are dismissed. The petitioner is granted liberty to file an appeal against the impugned



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assessment order dated 14.12.2022, subject to the payment of a sum of Rs.5,000/-, in each petitions by the petitioner.

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12. The said amount shall be paid by way of Demand Drafts in the name of “The Principal, Government Yoga and Naturopathy Medical College” within a period of 2 weeks from the date of receipt of copy of this order. Upon receipt of said Demand Drafts, “The Principal, Government Yoga and Naturopathy Medical College” is directed to deposit the same in the bank account, if already opened and maintained with the Indian Bank, Madras High Court Branch, Chennai. If no bank account is opened in the said branch, the Principal of Government Yoga and Naturopathy Medical College, Chennai is directed to open an SB Account in the Indian Bank, Madras High Court Branch, Chennai, immediately upon receipt of this order and furnish the details of the said bank account to the Registry.



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13. Upon production of the copies of the Demand Drafts by the petitioner, the respondent shall entertain the appeals filed by the petitioner, without insisting upon limitation aspect, and decide the same on their own merits and in accordance with law. Consequently, the connected miscellaneous petitions are also closed.

24.09.2024

Speaking/Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

nsa

***Note:** Issue order copy on 30.09.2024*

To

1.The Superintendent of GST & Central Excise,
Mettur II Range,
D.No.16/1, First Floor, Mettur Main Road,
Omalur 636 502.

2.The Assistant Commissioner,
Salem II Division,
GST Bhawan, No.1, 3rd Floor,
Foulkes Compound, Anaimeedu, Salem 636 001.

Copy to:

The Principal,
Government Yoga and Naturopathy Medical College,
(Near Anna Arch), Arumbakkam, Chennai 600 106.

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KRISHNAN RAMASAMY.J.,

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