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W.P. No.36047 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.36047 of 2024
and
WMP Nos.38938 & 38939 of 2024

M/s.Golden Enterprises,
Represented by its Proprietor

... Petitioner

Versus

The Assistant Commissioner, (ST),
Inspection,
Office of the Assistant Commissioner,
Coimbatore, Tamil Nadu

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking for a Writ of Certiorari, calling for the records of the impugned order in Ref.No.ZD330724321118N dated 26.07.2024 for the financial year 2023-24 under Section 74 of the CGST/TNGST Act, 2017 and uploaded along with the summary of order in DRC07 from the files of the respondent herein, quash the same and pass orders

For Petitioner : Ms.Aparna Nandakumar

For Respondent :Mr.G.Nanmaran,
Special Government Pleader



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ORDER

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The present writ petition is filed on the limited ground that the impugned order traverses beyond the show cause notice inasmuch as the tax liability, which was proposed under various heads on the basis of discrepancies, which was noticed was Rs.20,68,970/-, whereas in the impugned order of assessment, the tax liability which has been confirmed is Rs.5,90,87,988/-. The following extract of the table in the show cause notice and in the impugned order will make this clear.



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(c) Tax and other dues:

Financial Year: 2023-2024

Financial Year: 2023-2024															
Sl.No.	HSN	Turnover	Rate of Tax	Tax Period				Place of Supply (POS)	Act	Tax/ Cess	Interest (%)	Penalty (%)	Fee (%)	Others (%)	Total(%)
				From		To									
				Month	Year	Month	Year								
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
1	7106	49638570	1.5 APR	2023	OCT	2023			CGST	744679	0	111687	0	0	856266
2	7106	49638570	1.5 APR	2023	OCT	2023			SGST	344679	0	111687	0	0	456366
3	7113	4823055	5 APR	2023	OCT	2023	33		IGST	241150	0	241150	0	0	482306
4	4401	6787	2.5 APR	2023	OCT	2023			CGST	170	0	170	0	0	340
5	4401	6787	2.5 APR	2023	OCT	2023			SGST	170	0	170	0	0	340
6	71061000	43829	12 APR	2023	OCT	2023	33		IGST	5235	0	5235	0	0	10470
7	996531	9963	18 APR	2023	OCT	2023	33		IGST	1792	0	1792	0	0	3584
8	8308	856745	9 APR	2023	OCT	2023			CGST	77107	0	77107	0	0	154214
9	8308	856746	9 APR	2023	OCT	2023			SGST	77107	0	77107	0	0	154214
10	401110	637420	14 APR	2023	OCT	2023			IGST	86539	0	86539	0	0	173078
11	401110	637420	14 APR	2023	OCT	2023			SGST	86539	0	86539	0	0	173078
12	7106	0	1.5 APR	2023	OCT	2023			CGST	0	0	28654261	0	0	28654261
13	7106	0	1.5 APR	2023	OCT	2023			SGST	0	0	28654261	0	0	28654261
14	7109	0	1.5 APR	2023	OCT	2023			CGST	0	0	28654261	0	0	28654261
15	7106	0	1.5 APR	2023	OCT	2023			SGST	0	0	28654261	0	0	28654261

Total Amount (For all Financial Years)

Tax Period	Act	Tax/Cess	Interest	Penalty	Cess	Fees	Others	Total
2023-24	CGST	910395	0	57586025	0	0	0	58496420
2023-24	IGST	248180	0	349180	0	0	0	497360
2023-24	SGST	910395	0	57586025	0	0	0	58496420
2023-24	CESS	0	0	0	0	0	0	0
				57586025	0	0	0	58496420



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IGST	248180	0	248180	0	0	0	456360
SGST	310395	0	57386075	0	0	0	58495420
CESS	0	0	0	0	0	0	0
Total	2068970	0	115420230	0	0	0	117489200

Copy of Detailed Notice is enclosed as separate attachment.

Signature

Name: JANAKINATHAN MEHANATHAN
Designation: Commercial Tax Officer
Jurisdiction: COIMBATORE, Tamil Nadu
Address: NA

Encloser/s:

- DRC 01 2023-24 SIGNED ANNEXURE



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2. It was submitted by the learned counsel for the petitioner that in the event of tax, interest or penalty, which is demanded in the order is in excess of the amount specified in the notice then in terms of Section 75(7) of the Act, no such demand shall be made unless a fresh notice is issued.

3. This being pointed out, learned Special Government Pleader for the respondent would submit that they would redo the assessment after issuing a fresh notice to the petitioner.

4. Learned counsel for the petitioner agreed to the statement made by the learned Special Government Pleader.

5. Recording the same, the impugned order dated 26.07.2024 is set aside. Liberty is granted to the respondent authorities to issue a fresh notice to the petitioner and thereafter, proceed to complete the assessment, in accordance with law.



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6. Accordingly, the writ petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

29.11.2024

Speaking (or) Non Speaking Order

Index : Yes/ No

Neutral Citation: Yes/No

mrn

To

The Assistant Commissioner, (ST),

Inspection,

Office of the Assistant Commissioner,

Coimbatore, Tamil Nadu



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MOHAMMED SHAFFIQ, J.

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