



W.P. No.36062 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.36062 of 2024

and

W.M.P.Nos.38960 and 38959 of 2024

Latta Super Market,
Represented by its Partner,
Paulraj Dhinakaran,
No.6, 6, Dhandeeswaran Main Road,
Chennai 600 042.

... Petitioner

Vs.

State Tax Officer,
Velachery Assessment Circle,
2nd Floor, Room No.234, The Integrated
Building for Commercial Taxes & Registration
Department, (South Tower), Nandanam,
Chennai 600 035.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records on the files of the respondent herein in his GSTIN:33AABFL6568K1Z1 /2019-20 dated 30.08.2024 to quash the same with the direction to conduct and record cross examination along with their objections dated 19.08.2024.

For Petitioner : Mr.R.Kumar

For respondent : Mr.T.N.C.Kaushik,
Additional Government Pleader.

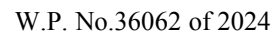


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Notice on 19.08.2024. It is submitted that there were no other issues and the same were not being adjudicated. The petitioner, in response to the excess claim of ITC which is only in view of the alleged mismatch between GSTR-2A and GSTR-3B, had along with its reply filed a declaration from supplier, which was also furnished to the respondent authority. The respondent authority had thereafter apparently conducted an enquiry with the alleged supplier of the petitioner who had disowned the issuance of such a certificate.

4. It is the submission of the learned counsel for the petitioner that they were not put on notice on this aspect. It is the case of the petitioner that if the declaration form were to be rejected on the basis of any enquiry, the same ought to have been informed to the petitioner to enable them to meet the case, and if needed, they could have requested an opportunity for cross-examination. However, the impugned order has been passed without the petitioner being informed of the above aspect. In that view of the matter, it is submitted by the learned counsel for the petitioner that the impugned order is made in gross violation of principles of natural justice.

5. Insofar as the ineligible ITC is concerned, it is submitted by the learned counsel for the petitioner that they had filed their reply. However, the impugned



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16	BENANI Foods Private Limited	33AAFCB7460F1ZV	20.07.2024	22142.14	1803.50	1803.50
17	Pharmawest	33AAEP6783F3Z4	18.07.2024	21264.44	1501.05	1501.05
18	Chemical Trading	33ARPC3241L1ZF	18.07.2024	2800	70	70
19	Chemical Import	33AAOFK4814A1ZF	18.07.2024	15750	1100.40	1100.40
20	Bharath Enterprises	33AORPK4064P1ZK	18.07.2024	21520.70	993.03	993.03
21	MSV Enterprises	33AOPPS2905D1Z0	18.07.2024	1545.16	38.63	38.63
22	Bharath Traders	33AAPP38778E1ZL	20.07.2024	3330.00	299.70	299.70
23	M Palani Agency	33AVTPM3209K1ZA	18.07.2024	107696.45	6268.23	6268.23
24	MSV Agencies	33AXPPA6716K1ZC	18.07.2024	1216.95	118.53	118.53
25	H&H Associates	33AAIH0770J1Z0	18.07.2024	85460.18	4649.00	4649.00
26	Maharatha Commodity Service	33ARYP89061H1ZEH	18.07.2024	12339.28	308.48	308.48
27	So Venkateswara Agencies	33ACUPL0675J1ZP	18.07.2024	18084.15	1012.51	1012.51
28	HN Essential Oils & Products	33AWHP56609N1ZY	18.07.2024	1111.61	66.70	66.70
29	S M Agencies	33MKDPS138A1Z9	18.07.2024	1935.68	173.76	173.76
30	Murugan Enterprises	33AAAFM9613M1Z4	18.07.2024	33883.08	2959.42	2959.42
	Total			2450828	120114.8	120114.8

The taxable person has filed only 33 declarations for a turnover of Rs.34,50,828/- on which CGST is Rs.1,20,114.80 and SGST of Rs. 1,20,114.80. Further on verification of the declaration filed, the taxable person had not filed the copies of the tax invoices and on enquiry with the taxable supplier who had issued the declaration, without signing the Annexure to the declaration informed that the certificate / declaration was not issued by them and the signature in the letter or declaration does not related to them. Further the annexure annexed to all the declaration has in which the invoices wise details has been furnished does not either bear the signature and if bears the signature, on verification it has been informed by the taxable supplier who had issued the declaration informed that they have not issued the declaration and the signature in the declaration does not relates to them.



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6. In light of the above, it is submitted by the learned counsel for the petitioner that the impugned order suffers from vice of non-application of mind to the material of record and also in violation of principles of natural justice as the reasons which weighed in the mind of the assessing authority while passing the order of adjudication have not been disclosed.

7. When the above defects in the order of assessment were pointed out, the learned counsel for the respondent would submit that they would redo the assessment after providing a reasonable opportunity of hearing.

8. In view thereof, the impugned order dated 30.08.2024 is set aside. The petitioner is granted liberty to treat the impugned order as a Show Cause Notice. The petitioner is directed to file its objection within a period of two weeks from the date of receipt of a copy of this order. The respondent shall thereafter redo the assessment after granting the petitioner a reasonable opportunity of hearing in accordance with law.



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9. Accordingly, the Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

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Speaking (or) Non Speaking Order

Index : Yes/ No

Neutral Citation: Yes/No

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To:
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2nd Floor, Room No.234, The Integrated
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MOHAMMED SHAFFIQ, J.

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