IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2024

CORAM :

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.1054 of 2024 and
W.M.P.Nos.1114 & 1115 of 2024

K.Rajaram ...Petitioner

-Vs-

1. The Commissioner of Commercial Taxes,
   Office of the Commercial Taxes,
   Chepauk,
   Chennai-600 005.

2. The Deputy Commissioner (CT),
   Review and Appeal-1,
   O/o. Commissioner of Commercial Taxes,
   Chepauk, Chennai-05. ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the records on the file of the 1st Respondent in Charge Memo No.CD2/18374/2017-I/ dated 30.04.2018 and the summons issued by the 2nd Respondent in his Proceeding No.SC/1/2023 dated 15.11.2023 and quash the same.

For petitioner : Mr.M.Ravi

For respondents : Mrs.K.Vasanthamale
Government Advocate (Taxes)

ORDER

This writ petition has been filed challenging the Charge Memo dated 30.04.2018 and the summons issued by the 2nd respondent dated 15.11.2023 for conducting domestic enquiry.

2. The petitioner was initially appointed as Junior Assistant in the Commercial Taxes Department in the year 1994. Thereafter, he was promoted to the post of Assistant in the year 2000. In the year 2015 he was promoted to the post of Assistant Commissioner. While being so, he involved in criminal case and suspended from service. In pursuant to the registration of FIR in Cr.No.3/AC/2015/CC-I, the investigation authority completed investigation and filed a final report and the same has been taken cognizance in Spl.C.C.No.05 of 2016 on the file of the Judicial Magistrate cum Special Judge, Chengalpet and it is pending for trial. In the mean

while, the petitioner was served with impugned charge memo dated 30.04.2018 consisting four charges. In pursuant to the charge memo, now the 2nd respondent has been appointed as enquiry officer and conducting enquiry. In order to conduct domestic enquiry, the petitioner was served with summons dated 15.11.2023. Now, the only grievance of the petitioner is that the respondents has to stall the entire disciplinary proceedings pending outcome of the criminal case. Simultaneous proceedings cannot be proceeded with since the petitioner is facing charge before the criminal court. The departmental proceedings being exactly identical to the criminal case and that too both the cases being under Prevention of Corruption Act, 2018. If the petitioner is allowed to represent in the charge memo even when simultaneous disciplinary proceeding is conducted, the petitioner will be exposed to serious prejudice.

3. On perusal of the charge sheet for identical charges pending before the criminal court, the departmental proceedings is being exactly identical to the criminal case. Therefore, the disciplinary proceedings ought not to have been conducted as the defence of the petitioner in the criminal

case will be exposed in the departmental proceedings.

4. Considering the above facts and circumstances, the respondents are directed to keep the disciplinary proceedings in abeyance till the disposal of the criminal case pending in Spl.C.C.No.05 of 2016 on the file of the Chief Judicial Magistrate cum Special Judge, Chengalpet. The respondents are further directed to proceed with the disciplinary proceedings immediately after disposal of the criminal case without any further reference.

5. With the above direction, this writ petition is disposed of. Consequently, connected miscellaneous petitions are closed. No costs.

19.01.2024

Index : Yes/No
Internet: Yes/No
gvn

To

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G.K.ILANTHIRAIYAN,J.
gvn

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