



W.P.(MD) No.9442 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

**W.P.(MD) No.9442 of 2024
and
W.M.P.(MD) Nos.8567 and 8569 of 2024**

Tvl.Sivagnanam Insecticides Emporium,
rep. By its Proprietor S.Manickaraj,
5, NA, Valayalkara Street,
Thirumangalam 625 706.

... Petitioner

/vs./

- 1.The Union of India,
rep. By the Secretary,
Department of Revenue, Ministry of Finance,
No.137, North Block,
New Delhi 110 001.
- 2.The Goods and Services Tax Council,
rep. By its Chairman,
GST Council Secretariat,
5th Floor, Tower – II,
Jeevan Bharti Building,
Janpath Road,
Connaught Palace, New Delhi 110 001.
- 3.The State of Tamil Nadu,
rep. By its Secretary to Government,



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Secretariat,
Fort St.George, Chennai 600 009.

4.Principal Secretary/Commissioner of Commercial Taxes,
Commercial Taxes Department, Ezhilagam,
Chepauk, Chennai 600 005.

5.The Deputy State Tax Officer-2,
Thirumangalam Assessment Circle,
Thirumangalam.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records on the file of the 1st respondent in Notification No.09/2023 - Central Tax dated 31-03-2023 and the records on the file of the 3rd respondent in G.O Ms.No.41 and the Notification dated 05-04-2023 issued therein and the records on the files of the 5th respondent in GSTIN 33AYFPM1682B1ZS/2017-18 dated 23.12.2023 and quash the same as manifestly arbitrary, void, contrary to the provision of Section 168A of the Goods and Services Tax Act, 2017 and violative of Articles 14 and 19(1)(g) of the Constitution of India and illegal, without jurisdiction and against the principles of natural justice.

For Petitioner : Mr.S.Raja Jeya Chandra Paul

For R1 : Mr.H.Velavadhas
Senior Panel Counsel

For R3 to R5 : Mr.J.K.Jayaselan
Government Advocate



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ORDER

The Writ Petition is disposed of at the time of admission with the consent of Mr.H.Velavadhias, learned Senior Panel Counsel for the first respondent and Mr.J.K.Jayaselan, learned Government Advocate for the respondents 3 to 5.

2.The petitioner has challenged the impugned order dated 23.12.2023, whereby the fifth respondent has confirmed the demand of Rs.8,14,484/- from the petitioner inclusive of the penalty and interest. The impugned order precedes the notices issued to the petitioner as detailed below:-

- “1.This office in Form GST DRC-01A issued dated 19.09.2023*
- 2.This office in Form GST DRC-01 issued dated: 26.09.2023*
- 3.This Office Personal hearing (Reminder-1) issued on 08.12.2023”*

3.The petitioner has not replied to the above mentioned notices. Under these circumstances, the impugned order has been quashed.

4.Although the petitioner would make submissions on merits, I am not inclined to venture into the merits of the case, as the case is being remanded back to the fifth respondent to pass a fresh order on merits subject to the petitioner



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depositing 10% of the disputed tax with the fifth respondent. On such deposit being made and the reply being filed to the notices mentioned above by the petitioner within a period of 30 days from the date of receipt of a copy of this order, the fifth respondent shall pass a fresh order on merits and in accordance with law within a period of 30 days thereafter after hearing the petitioner. The impugned order, which stands quashed, shall be treated as corrigendum to the three notices issued to the petitioner. All the issues are left open to be canvassed before the fifth respondent.

5.The Writ Petition stands allowed, accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No
Internet : Yes / No
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18.04.2024

To

1.Secretary to Government,
Secretariat,
Fort St.George, Chennai 600 009.



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2.Principal Secretary/Commissioner of Commercial Taxes,
Commercial Taxes Department, Ezhilagam,
Chepauk, Chennai 600 005.

3.The Deputy State Tax Officer-2,
Thirumangalam Assessment Circle,
Thirumangalam.



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C.SARAVANAN, J.

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