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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **25.04.2024**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.10246 of 2024
and
W.M.P.(MD) Nos.9216 to 9218 of 2024

Ramesh Agency,
A Proprietary Concern,
Represented by Proprietor – Ramesh.K,
No.19, Pandian Complex, Anna Nagar,
Madurai – 625 020. ... Petitioner

Vs.

1.The Assistant Commissioner (ST),
Madurai Rural East Assessment Circle,
CT Complex, Dr.Thangaraj Salai,
K.K.Nagar, Madurai – 626 020.

2.The Commercial Tax Officer /
The Assistant Commissioner(ST)(FAC),
Chokkikulam Assessment Circle,
CT Complex, Dr.Thangaraj Salai,
K.K.Nagar, Madurai – 626 020. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for the records pertaining to the impugned order passed by the 1st respondent in unsigned impugned order dated 20.12.2023 uploaded under Section 73, impugned detailed proceedings in DRC 07 dated

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20.12.2023 and impugned unsigned summary of the order in Form GST DRC 07 in reference No.ZD331223151045Z dated 20.12.2023 passed for the Tax Period 2017-18 and quash the same.

For Petitioner : Mr.B.Sivaraman

For respondents : Mr.J.K.Jayaselan
Government Advocate

ORDER

It is noticed that in this Writ Petition, the petitioner has challenged the impugned Assessment order dated 20.12.2023 passed for the Assessment Year 2017-18.

2. The petitioner was issued show cause notice in DRC01 on 28.09.2023, which has culminated in the impugned order. The impugned order reveals that the petitioner has not participated in the proceedings. The explanation forthcoming from the petitioner is that the petitioner was under audit by the second respondent under Section 65 of TNGST Act, 2017 and that the parallel proceedings were initiated in DRC 01 on 29.09.2023 by the second respondent for the same assessment year, namely, AY2017-18. The learned counsel for the petitioner would submit that the same was also uploaded in DRC05 by the first

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respondent vide order, dated 20.12.2023. However, the impugned order has now been passed by the first respondent on the same day in the exercise of power under Section 73 of the TNGST Act, 2017.

3. The learned counsel for the petitioner submits that the petitioner was unaware of the parallel proceedings under Section 73 of the TNGST Act, 2017. That apart, the learned counsel for the petitioner submits that out the total demand of Rs.18,76,906/- (Rupees Eighteen Lakhs Seventy Six Thousand Nine Hundred and Six only) a sum of Rs.7,62,834/- (Rupees Seven Lakhs Sixty Two Thousand Eight Hundred and Thirty Four only) has been deducted directly from the petitioner's Electronic Credit Ledgers on 20.03.2024. It is only after the aforesaid deduction was made, the petitioner came aware of the impugned order dated 20.12.2023. Hence, he prays for setting aside the impugned order. It is also submitted that the impugned order and also the notices were served to the petitioner, however, they have been backdated.

4. The learned Government Advocate for the respondents submits that there is no merit in the present Writ Petition as the petitioner has an alternate

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remedy under Section 107 of the TNGST Act, 2017 before the Deputy Appellate Commissioner.

5. Having considered the submissions of the learned counsel for the petitioner and the learned Government Advocate for the respondents and having considered the fact that the petitioner failed to respond to the notices issued in DRC01 dated 28.09.2023, which is culminated in the impugned order dated 20.12.2023 and having considered the fact that the respondent has recovered the substantiate portion of the tax, which was confirmed vide the impugned orders dated 20.12.2024 for a sum of Rs.7,62,834/-, the impugned order is set aside and the case is remitted back to the respondents to pass fresh orders on merits in accordance with law.

6. The impugned order, which stands quashed, shall be corrigendum to the impugned order issued to the petitioner in DRC01 dated 28.09.2023.

7. It is expected that the petitioner will file a detailed reply within a period of 45 days from the date of receipt of a copy of this order. The

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respondents shall take up the case afresh and pass final orders on merit in accordance with law within a period of 45 days thereafter. It is needless to say that the petitioner shall also file all the documents to substantiate the case.

8. Accordingly, the Writ Petition stands allowed. Since the substantial amount of tax has been deducted on 20.03.2024, the respondents are directed to re-credit 50% of the aforesaid amount back through Electronic Credit Ledger of the petitioner, so that, the petitioner does not suffer from the liquidity crunch. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes / No
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C.SARAVANAN, J.

apd

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