



W.P.(MD).No.12712 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.08.2024

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THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

W.P.(MD).No.12712 of 2024

and

W.M.P.(MD).Nos.11303 and 11306 of 2024

Tvl.A .J.Traders,
Represented by its Proprietor,
Mrs.Jayapratha.

... Petitioner

Vs.

The State Tax Officer (Roving Squad-3),
Office of the Commercial Tax Department,
Trichy – 620 020.

...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records of the impugned order passed by the respondent in DRC 07 in GSTIN 33AFUPJ4299M1ZL/2018-19 dated 28.02.2024 and quash the same as arbitrary.

For Petitioner

: Mr.S.Muthuvenkatraman

For Respondent

: Mr.R.Sureshkumar

Additional Government Pleader



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ORDER

WEB COPY The present Writ Petition is filed challenging the impugned order dated 28.02.2024 on the premise that it has been made on gross non-application of mind to the objections put forth by the petitioner.

2. It is submitted by the learned counsel for the petitioner that the petitioner is a registered supplier under the Tamil Nadu Goods and Services Act, 2017 and engaged in procuring raw cotton from farmers and carry out the processing of raw cotton called ginning to remove seeds. For the period from April 2018 to March 2019, the petitioner had procured raw cotton from various agriculturalists, which was used for ginning and thereafter, the ginned cotton was sold. On the said supply, output tax liability has been duly discharged.

3. It was further submitted by the learned counsel for the petitioner that the impugned order proceeds on the basis that the petitioner ought to have paid the taxes under Reverse Charge Mechanism at the point of purchase. It was submitted that while admitting that they have not paid taxes under Reverse Charge Mechanism at the point of purchase, nevertheless, in view of the fact that taxes have been paid at the time of supply of ginned cotton, the entire exercise is revenue neutral, inasmuch as taxes being paid under Reverse Charge



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Mechanism would enable them to avail Input Tax Credit, which they could have utilized to discharge their output tax liability. It was further submitted that the respondent, after recording the submissions that the petitioner have discharged the entire liability on the supply, had not dealt with the plea of revenue neutrality.

4. The learned Additional Government Pleader appearing for the respondent, on instructions, would submit that the petitioner may be put on terms and that the issue would be re-considered subject to the condition that the petitioner pays 10% of taxes in view of the fact that the petitioner had already discharged the entire taxes and the entire exercise is revenue neutral.

5. In view of the peculiar facts that the entire taxes are claimed to have been discharged by the petitioner and that the entire exercise is revenue neutral and also the fact that the learned Additional Government Pleader for the respondent submits that the assessment would be redone subject to the condition the petitioner pays 10% of taxes, this Court is inclined to set aside the impugned order. Accordingly, the impugned order passed by the respondent dated 28.02.2024 is set aside. The petitioner shall pay 10% of taxes in terms of the impugned order of adjudication. Out of the said condition/deposit, 50%



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shall be paid within a period of three (3) weeks from the date of receipt of a copy of this order and the remaining 50% shall be paid within a period of four (4) weeks thereafter. On compliance of such condition, the respondent shall re-do the assessment and orders shall be passed after affording an opportunity of hearing to the petitioner. If the petitioner fails to comply with any of the above conditions, the impugned order shall stand automatically revived.

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

23.08.2024

Index : Yes / No
Internet : Yes/ No
Lm

To
The State Tax Officer (Roving Squad-3),
Office of the Commercial Tax Department,
Trichy – 620 020.



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MOHAMMED SHAFFIQ, J.

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