



W.P.(MD) No.12101 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.06.2024

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.12101 of 2024

and

W.M.P.(MD) No.10757 of 2024

M/s.Jesus Ginning and Raymond Seeds
Rep. by its Proprietor Mr.S.Kamaraj,
No.716, Ranasur Naickenpatti,
Ettayapuram – 628 902,
Thoothukudi District.

... Petitioner

Vs.

The Superintendent of GST & Central Excise,
Ettayapuram Range,
913-C, Catholic Center, Main Road,
Kovilpatti – 628 501,
Tuticorin District.

... Respondent

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorari calling for the records pertaining to the impugned order passed by the respondent *vide* his Order-in-Original No. 06/GST/EPM/2024 dated 12.02.2024 and quashing the same as it is illegal and without jurisdiction and in gross violation of principles of natural justice.



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For Petitioner : Mr.A.Satheesh Murugan

For Respondent : Mr.R.Nandhakumar
Senior Standing Counsel

ORDER

Mr.R.Nandhakumar, learned Senior Standing Counsel takes notice for the respondent.

2. With the consent of both the learned counsel for the petitioner and the learned Senior Standing Counsel for the respondent, at the time of admission, this Writ Petition is taken up for final disposal.

3. In this Writ Petition, the petitioner has challenged the impugned Order-in-Original No.06/GST/EPM/2024 dated 12.02.2024 passed by the respondent for the Assessment Year 2018-2019.

4. The petitioner was earlier issued with a Notice in Form GST ASMT - 10 dated 21.01.2023, whereby, the petitioner was called upon to give explanation for the discrepancies between the return filed by the petitioner in Form GSTR - 1 and in Form GSTR - 3B and the discrepancies between amounts in Form GSTR - 3B and in Form GSTR -



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2A/GSTR - 9. The petitioner has replied to the same on 28.01.2023. By a communication dated 15.03.2023, the aforesaid discrepancies for a sum of Rs.1,07,078/- was dropped with the following observations:-

It is informed that you have submitted the reply for the difference in tax liability declared in the GSTR-1 and tax discharged in GSTR-3B. On verification, it is noticed that you have raised debit notes for your out ward supplies made to various recipient for the month of Apr,2018, Aug,2018 and March,2019. After making amendment, the tax liability declared and discharged were tallied and non discrepancy has been noticed.

5. By the aforesaid communication, the petitioner was called upon to comply with the requirements of Board's Circular No.183/15/2022-GST dated 27.12.2022 within a period of 10 days from the date of receipt of the said communication. This pertains to the excess input tax credit availed by the petitioner for a sum of Rs.3,61,036/- and the interest thereon for a sum of Rs.1,862/- as in Notice in Form GST ASMT – 10, details of which are given below:-

	TAXABLE VALUE	CGST	SGST	TOTAL
GSTR – 3B (Table 4 ITC)		1772975	1772975	3545950
GSTR – 2A /GSTR-9		1592457	1592457	3187914
SHORT PAYMENT		180518	180518	361036



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6. Since the petitioner failed to respond to the aforesaid notice of the respondent dated 15.03.2023, another notice in Form GST DRC-01A dated 08.08.2023 and Show Cause Notice No.27/GST/SUPDT/EPM/2023 dated 11.10.2023 bearing reference C.No.IV/04/39/2022-EPM (O.C.No. 227/2023) were issued to the petitioner which have culminated in the impugned Order-in-Original dated 12.02.2024, wherein, not only the amount which has been dropped in the earlier proceedings of the respondent dated 15.03.2023 but also the other amounts have been confirmed. The petitioner appears to have failed to reply to the notice dated 15.03.2023 and thus, the respondent has confirmed the demand.

7. Aggrieved by the same, the petitioner is before this Court stating that there is violation of principles of natural justice.

8. I am of the view that the respondent cannot be wholly blamed in the facts and circumstances of the case, as the petitioner has failed to respond to both the notice in Form GST DRC-01A dated 08.08.2023 and the Show Cause Notice No.27/GST/SUPDT/EPM/2023 dated 11.10.2023.



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9. Be that as it may, the amount which was dropped in the earlier proceedings dated 15.03.2023 by the respondent has also been confirmed and therefore, there is an indication that there is non-application of mind on this aspect. Considering the same, the impugned order is set aside and the case is remitted back to the respondent to pass a fresh order on merits and in accordance with law subject to the petitioner depositing 10% of the balance amount of Rs.3,61,036/- with the respondent, within period of 30 days from date of receipt of copy of this order.

10. The impugned order which stands set aside in this order shall be treated as addendum to the aforesaid Show Cause Notice No. 27/GST/SUPDT/EPM/2023 dated 11.10.2023. The petitioner shall reply to the same within a period of 30 days from the date of receipt of a copy of this order.

11. If the petitioner files reply to the Show Cause Notice and addendum and deposits 10% of the aforesaid disputed tax within the aforesaid period, the respondent shall pass fresh order on merits and in accordance with law.



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WEB COPY 12. Accordingly, this Writ Petition stands disposed of. No costs.

Consequently, connected Miscellaneous Petition is closed.

10.06.2024

Index: Yes/ No

Neutral Citation: Yes / No

Speaking Order / Non-Speaking Order

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Copy To:

The Superintendent of GST & Central Excise,
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913-C, Catholic Center, Main Road,
Kovilpatti – 628 501,
Tuticorin District.



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C.SARAVANAN, J.

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