IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.05.2025

CORAM :

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No. 19607 of 2025
and
W.M.P.Nos. 21966, 21968 & 21970 of 2025

Tvl. Prabha Drug House,
Rep. By its Proprietor,
R.Sampath Kumar,
Sy.No. 352, Block 51,
Ward – B, Janappar Street,
Hosur – 635 109. .. Petitioner

vs

1.The Assistant Commissioner (ST) (FAC),
(also known as the Commercial Tax Officer),
Hosur North II Circle.

2.The Manager,
Tamil Nadu Mercantile Bank Ltd.,
No.690/1, Old Bangalore Road,
Hosur – 635 109. .. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari calling for the records on the file of the 1st respondent herein in GSTIN/33APUPS2933K1ZA/2018-19 in FORM GST DRC-07 in Order Reference No. ZD330424017701V dated 02.04.2024 and quash the same.

For Petitioner : Ms.K.Siri Chandana

For Respondents : Mr.T.N.C. Kaushik
Additional Government Pleader (T)
for R1

ORDER

An order dated 02.04.2024 pertaining to mismatch between the petitioner's GSTR 1 and GSTR 3B returns is assailed in this writ petition.

2. Learned counsel for petitioner submits that 89% of the differential amount was remitted by way of debit from the petitioner's electronic credit ledger. She submits that the impugned order has been issued without reference thereto.

3. Mr.T.N.C. Kaushik, learned Additional Government Pleader, accepts notice for the first respondent. He submits that the petitioner did not reply to the show cause notice or participate in the proceedings.

4. On examining the impugned order, it appears that the tax proposal was confirmed without taking into account the amount paid by the petitioner by way of debit from the electronic credit ledger. It is also noticeable that the petitioner did not participate in the proceedings. In these circumstances, reconsideration is necessary, albeit by putting the petitioner on terms.

5. On instructions, learned counsel for petitioner states that

the petitioner agrees to remit 10% of the disputed tax demand (after adjusting amounts already paid by way of debit from the electronic credit ledger) within two weeks from the date of receipt of a copy of this order.

6. Subject to the petitioner's fulfilling the conditions specified above, impugned order dated 02.04.2024 is set aside and the matter is remanded for reconsideration. After providing reasonable opportunity to the petitioner, the first respondent is directed to issue fresh orders within three months from the date of receipt of a copy of this order. In view of the assessment order being set aside, the consequential bank attachment is raised.

7. Since the second respondent has been impleaded as a garnishee, this writ petition is disposed of without notice to the second respondent. No costs. Consequently, connected miscellaneous petitions are closed.

29.05.2025

Index:Yes/No
Neutral Citation:Yes/No
mmi/ssm

To

1.The Assistant Commissioner (ST) (FAC),
(also known as the Commercial Tax Officer),
Hosur North II Circle.

2.The Manager,
Tamil Nadu Mercantile Bank Ltd.,
No.690/1, Old Bangalore Road,
Hosur – 635 109.

SENTHILKUMAR RAMAMOORTHY , J.

mmi/ssm

W.P.No.19607 of 2025

29.05.2025