IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.07.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.23632 of 2025
& W.M.P.Nos.26581 & 26582 of 2025

Tvl.Najm Leather Exports,
Rep. by its Proprietor Mr.Palli Najmuddin,
Ground Floor, 5/11, Kattur Sadayappan Street,
Periyamet, Chennai,
Tamil Nadu - 600 003. ... Petitioner

Vs.

1.The Assistant Commissioner (ST)(FAC),
Vepery Assessment Circle,
No.1, Room No.A-110,
CT Annexe Building, 1st Floor,
Greams Road, Chennai - 600 006.

2.The State Tax Officer,
Vepery Assessment Circle,
Chennai, Tamil Nadu. ... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records of the impugned assessment order in Ref.No.ZD3309241789005 dated 26.09.2024, under Section 74 of the CGST/TNGST Act, 2017 and uploaded the same along with the summary of order in DRC07 for the Financial Year 2018-19 from the files of the first respondent herein, quash the same.

For Petitioner	:	M/s.Aparna Nandakumar
For Respondents	:	Mrs.K.Vasanthamala, Government Advocate (T)

ORDER

This writ petition has been filed challenging the impugned rejection order dated 26.09.2024 passed by the 1st respondent.

2. Mrs.K.Vasanthamala, learned Government Advocate, takes notice on behalf of the respondents. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that in this case, the second respondent issued a show cause notice dated 27.12.2021, alleging that the petitioner had availed ineligible Input Tax

Credit on invoices issued by bill traders without any actual supply of goods and proposed to levy tax of Rs.3,27,042/- without penalty and interest. For the said show cause notice, the petitioner had filed a detailed reply along with required documents on 01.12.2022 and also attended the first personal hearing on 07.12.2022. This being the case, the first respondent issued reminder notices dated 16.12.2022 and 10.01.2023, for which the petitioner has filed a detailed replies on 22.12.2022 and 17.01.2023. Under these circumstances, the first respondent passed the impugned assessment order dated 26.09.2024, stating that they are dropping the issues relating to the invoices issued by two suppliers viz., Tvl.Neha International and Tvl. M.S.L.Traders after due verification and they are confirming the issues pertaining to invoices issued by Tvl.Marwa Enterprises. Hence, challenging the aforesaid assessment order, the petitioner has come forward with the present writ petition.

4. She would further submit that in regard to Tvl.Marwa Enterprises, the petitioner has filed their detailed reply along with

necessary documents, however without considering the same, the first respondent passed the impugned order stating that the tax payer has not filed any reply, which shows the non-application of mind of the first respondent. Hence, he prays this Court to set aside the impugned order and remit back the same to the respondents for fresh consideration.

5. Learned Government Advocate appearing for the respondents would fairly submit that in the event if this Court is inclined to remit back the matter to the respondents, the same would be considered and appropriate orders will be passed in accordance with law.

6. Heard the learned counsel on either side and perused the materials available on record.

7. In the case on hand, it is evident that the show cause notice dated 27.12.2021 was issued to the petitioner, for which a detailed reply was also filed. However, without considering the same, the respondent first passed the impugned order dated 26.09.2024. On perusal of the

impugned assessment order, it is clear that the first respondent has dropped the proceedings in regard to Tvl.Neha International and Tvl.M.S.K.Traders and confirmed the issues pertaining to invoices issued by Tvl.Marwa Enterprises, since the petitioner has not filed any reply in this regard. However, on perusal of the records filed by the petitioner, it is clear and evident that the petitioner has filed their reply in regard to the transactions between Tvl.Marwa Enterprises and the same was not dealt with in the impugned assessment order passed by the first respondent.

9. In such view of the matter, this Court is inclined to grant one more opportunity to the petitioner by setting aside the impugned order passed by the first respondent. Accordingly, this Court passes the following order:-

> (i) The impugned assessment order dated 26.09.2024 is set aside only in regard to Tvl.Marwa Enterprises. As far as Tvl.Neha International and Tvl.M.S.K.Traders are concerned, the impugned order remains unaltered and stands confirmed.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, in regard to issues raised in Tvl.Marwa Enterprises, within a period of two weeks from the date of receipt of a copy of this order.

(iii) On filing of such reply/objection by the petitioner, the first respondent shall consider the same and issue a 14 days clear notice, by fixing the date of personal hearing, to the petitioner and thereafter, pass fresh orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible, in regard to Tvl.Marwa Enterprises alone.

With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

01.07.2025

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
vm

To

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2.The State Tax Officer,
Vepery Assessment Circle,
Chennai, Tamil Nadu.

<u>KRISHNAN RAMASAMY.J.,</u>
vm

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