IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2025

CORAM:

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.34721 of 2024
and
W.M.P.Nos.37656 & 37657 of 2024

K.Siva ...Petitioner

-Vs-

The Deputy State Tax Officer-I,
Villupuram-II, Assessment Circle,
Commercial Taxes Building,
Integrated Master Plan Complex,
Villupuram – 605 602. ...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a direction in the nature of Writ of Certiorarified Mandamus, to call for the records comprised in impugned GSTIN:33APBPS0750F1Z9 dated 23.07.2024 on the file of the respondent and quash the same and direct the respondent to pass fresh order in accordance with law and pass such further orders.

For Petitioner	:	Mr.P.Purushotham
For Respondent	:	Mr.G.Nanmaran Special Government Pleader (Tax)

O R D E R

The present writ petition has been filed challenging the impugned order passed by the respondent dated 23.07.2024 and directing the respondent to pass a fresh order in accordance with law.

2. The petitioner is a sole proprietor civil contractor for local clients of Villupuram, including TNEB and holds GST registration on the file of the respondent bearing No.33APBPS0750F1Z9.

3. Learned counsel appearing for the petitioner would submit that pre-show cause Notice in DRC 01 dated 18.05.2024 proposing a gross demand of Rs.68,92,484/-, during the relevant period 2019-20. The said SCN alleged that the annual return in GSTR-9 was not filed and the returns filed by the Petitioner have not declared the correct tax liability as per GSTR-3B and determined the tax liability of Rs.68,92,484/- represented by Tax of Rs.35,64,000/- (SGST Rs.17,82,000/- and CGST Rs,17,82,000/-) plus interest Rs.29,72,084/- and penalty Rs.3,56,400/-. Further, a personal hearing was offered on 06.06.2024.

4. Learned counsel would further submit that the Petitioner requested the respondent on 18.06.2024 to grant time of 15 days for responding, and by his letter dated 02.07.2024, the petitioner requested the respondent to furnish records/copy of E-way bills as a basis to determine GST turnover/demand that were relied on in proposing the demand as per SCN. Further, an interim reply dated 04.07.2024 reiterating the request of the letter dated 02.07.2024, including an objection to SCN uploaded in portal under the tab of "Additional Notices". However, the respondent passed an impugned order dated 23.07.2024 affirming the proposal under the SCN.

5. It is submitted by the learned counsel for the petitioner that neither the show cause notices nor the impugned order of assessment has been served on the petitioner by tender or sending it by RPAD, instead it had been uploaded under the field "Additional Notices and Orders" tab on the GST Portal, thereby, the petitioner was unaware of the initiated proceedings and was thus unable to participate in the adjudication proceedings. It is further submitted by the learned counsel for the petitioner that if the petitioner is provided with an opportunity, they would be able to explain the alleged discrepancies.

6. The learned counsel for the petitioner would place reliance upon the recent judgment of this Court in the case of ***Sree Manoj International Vs. Deputy State Tax Officer in W.P.No.10977 of 2024 dated 25.04.2024***, to submit that this Court has remanded the matter back in similar circumstances subject to payment of 10% of the disputed taxes.

7. It was further submitted that the petitioner is ready and willing to pay 10% of the disputed tax and that they may be granted one final opportunity before the adjudicating authority to put forth his objections to the proposal, to which the learned Special Government Pleader appearing for the respondent does not have any serious objection.

8. Heard both sides and perused the materials available on record.

9. In view thereof, the impugned order passed by the respondent dated 23.07.2024 is hereby set aside and the matter is remitted back to the respondent for a fresh consideration on merits and in accordance with law. This Court is inclined to pass the following orders:

a) The petitioner shall deposit 10% of the disputed tax within a period of four (4) weeks from the date of receipt of a copy of this

order.

b) **On receipt of such deposit, the respondent shall furnish the E-way bills documents relied on in proposing the demand to the petitioner and also consider the case of the petitioner on merits, in accordance with law, by giving due notice and affording an opportunity of personal hearing, within a period of six (6) weeks thereof.**

c) **If it is necessary, the petitioner may give an application for cross-examination of his Auditor which may be decided by the respondent Authority.**

d) **If the above deposit is not paid within the stipulated period, i.e., four weeks from the date of receipt of a copy of this order, the impugned order of assessment shall stand revived.**

In the result, the **Writ Petition stands disposed of with the above observations and directions**. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

22.01.2025

cda

Index : Yes / No
Speaking/Non Speaking order

J.SATHYA NARAYANA PRASAD, J.

cda

To

The Deputy State Tax Officer-I,
Villupuram-II, Assessment Circle,
Commercial Taxes Building,
Integrated Master Plan Complex,
Villupuram – 605 602.

W.P.No.34721 of 2024

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