IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-03-2025

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THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 34848 of 2024
AND
WMP NO. 37779 OF 2024

Lalitha Ragunathan
W/o. Vinoth Kumar.S,
No. 5, Dr. Nanjunda Rao Colony,
Mylapore, Chennai-600 004.

Petitioner(s)

Vs

Commercial Tax Officer
Mandaveli Assessment Circle,
4th Floor, Integrated CT and R
Buildings, 571, Anna Salai,
Nandanam, Chennai- 600 035.

Respondent(s)

PRAYER:-Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, calling for records and directing the Respondents to Quash the Demand order under section 73 of the Central Goods and Services Tax, Act, 2017 dated 28-12-2023 having the reference No. ZD3312232445160, for GSTN 33AAQPL8716J1Z9 for the financial year 2017-18.

For Petitioner(s): Dr.M.Sathya Kumar

For Respondent(s): Mr.C.Harsha Raj,
Special Government Pleader (t)

ORDER

This Writ Petition has been filed by the petitioner seeking to call for records and directing the Respondents to Quash the Demand order under section 73 of the Central Goods and Services Tax, Act, 2017 dated 28-12-2023 having the reference No. ZD3312232445160, for GSTN 33AAQPL8716J1Z9 for the financial year 2017-18.

2.Mr.C.Harsha Raj, learned Special Government Pleader (Taxes), takes notice on behalf of the respondent.

3.By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

4.Learned counsel for the petitioner would submit that, in the present case, the petitioner is engaged in the business of trading gold jewellery. On 30.08.2023, intimation in FORM GST DRC-01A was served intimating a total liability of Rs.81,59,696/-, which does not contain the Documnt Identification number, which is mandatory as per the Goods and Services Tax Act, 2017. Thereafter, the respondent had issued only a summary of show cause notice on 19.09.2023 and no detailed show cause notice was issued to the petitioner. Since none of the notices issued by the respondent containes the Document Identification number, the petitioner could not file their reply. Therefore, the exparte demand order dated 27.12.2023 was issued by the respondent. He would further submit that the demand order does not have any clarity whether the Input Tax Credit claimed have been considered in computing the same. Further, the petitioner is ready and willing to pay Rs.20,000/- of the disputed tax demand in respect of the impugned assessment period and prayed to set aside the impugned order directing the respondent to permit the petitioner to file their reply and provide an opportunity of personal hearing so that the petitioner would be able to substantiate their case.

5.Learned Special Government Pleader appearing for the respondent would submit that as per the voluntary submissions made by the learned counsel for the petitioner, subject to the deposit of Rs.20,000/- out of the disputed tax demand by the petitioner in respect of the impugned assessment period, if the Court feels it appropriate and it is a fit case for re-consideration, this Court may consider and pass orders.

6.Heard the learned counsel appearing for the petitioner as well as the learned Special Government Pleader appearing for the respondent and perused the materials available on record.

7.Considering the above submissions made by the learned counsel on either side and upon perusal of the materials, it is evident that the show cause notice was issued without mentioning the Document Identification number. According to the petitioner, since only a summary of show cause notice was issued and none of the notices issued to the petitioner contains the Document Identification number, he was not able to file a reply and therefore, he prayed to grant one more opportunity to file their reply to putforth their case. Thus, in such circumstances, this Court is of the view it is just and necessary to provide an opportunity to the petitioner to establish their case on merits and in accordance with law.

8.For the reasons stated above, this Court is inclined to set aside the impugned order dated 28.12.2023 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The order impugned herein is set aside on condition that the petitioner deposits a sum of Rs.20,000/- out of the disputed tax amount in respect of the impugned assessment period, as agreed by the petitioner, within a period of four weeks from the date of receipt of a copy of this order.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks thereafter.

(iii) On filing of such reply/objection by the petitioner, the 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 appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.

9.With the above directions, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petition is closed.

24-03-2025

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

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To

Commercial Tax Officer
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KRISHNAN RAMASAMY J.

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