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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)Nos.3728 to 3732 of 2025
and
WMP (MD) Nos.2694, 2700, 2677, 2679, 2680, 2726, 2695, 2696, 2682, 2683, 2685, 2706, 2723, 2725 and 2701 of 2025

WP(MD) No.3728 of 2025

TVL.PVK Constructions

Rep. by it Proprietor

Perumal Vijayakumar : Petitioner

Vs.

1. Union of India,
Through the Secretary Department of Revenue,
Ministry of Finance,
North Block,
New Delhi 110 001.

2. State of Tamil Nadu,
Through the Secretary Ministry of Finance,
Department of Revenue,
Fort St.George,
Chennai 600 009.

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3. State Tax Officer -1 (Inspection),
Office of the Joint Commissioner (St),
Intelligence,
Trichy Division,
Trichy 620 018.

4. State Tax Officer (Inspection – III),
Office of the Joint Commissioner (St),
Intelligence,
Trichy Division,
Trichy 620 018. : Respondents

PRAYER in WP(MD) No.3728 of 2025**:** Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the Impugned Order dated 23.08.2024 bearing reference no. ZD330824216044Q and the consequential Impugned Order dated 13.01.2025 bearing reference no. ZD3301251140180 passed by the Respondent No. 3 and to quash the same as illegal and remand the matter back to the Respondent No. 3 and consequentially direct the Respondent No. 3 to pass appropriate orders considering the rectification application filed by the Petitioner dated 09.11.2024.

For Petitioner : Mr.Bharat Raichandani (in all petitions)

For Respondents : Mr.J.K.Jayaseelan
Government Advocate for R2 to R4
(in all petitions)

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COMMON ORDER

The petitioner has preferred these writ petitions challenging the impugned order in Form GST DRC-07 dated 23.08.2024 along with the consequential rejection order of the rectification applications dated 13.01.2025, issued by the third respondent.

2. The learned counsel for the petitioner submits that the petitioner is a proprietorship concern engaged in the business of construction and works contract services, bearing GSTIN 33ADLPV4419QIZS. The respondents conducted a surprise inspection on 12.01.2024 and issued Form DRC-01 dated 14.06.2024, pointing out certain defects concerning the Input Tax Credit (ITC) availed and the turnover reported by the petitioner. Subsequently, a reminder notice was issued on 19.07.2024, scheduling a personal hearing for 26.07.2024. In response, the petitioner submitted an adjournment letter dated 01.08.2024, requesting additional time to file a reply with supporting documents. However, without considering this request, the third respondent passed the order in Form GST DRC-07 dated 23.07.2024,

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confirming the demand proposed in the show-cause notice under Section 74 of the CGST Act.

3. The main grievance of the petitioner is that the respondent conducted an inspection for the financial year 2019 – 2020, involving a very similar set of facts and issues. For this, the petitioner had filed a rectification application against the order dated 23.08.2024, which was allowed by the same authority and the demands confirmed in the order were dropped. However, the rectification application for the subsequent years, involving the same set of facts, was rejected without providing any reasons. Therefore, the learned counsel submits that the impugned orders were passed in violation of the principles of natural justice and are liable to be set aside.

4. Per contra, the learned Government Advocate appearing on behalf of the respondents 2 to 4 submits that the show-cause notice dated 14.06.2024 was issued to the petitioner, fixing the dates for filing a reply and personal appearance on 08.08.2024 and 16.08.2024. Since the petitioner failed to appear for the personal hearing, impugned order was passed on the premise that no reply was filed.

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5. Heard the learned counsel for the parties and perused the materials available on record.

6. On perusal of records, it is seen that the respondent issued a show-cause notice dated 14.06.2024, calling upon the petitioner's reply and fixing date of personal hearing on 16.08.2024. The said show cause notice was issued on account of certain defects noticed in excess ITC availed by the petitioner and for suppression of turnover. Thereafter, the petitioner filed an adjournment letter seeking time to file a detailed reply along with relevant documents. However, the respondent without considering the same, passed the impugned order. Thus, this Court is of the view that the impugned order suffers from violation of principles of natural justice. Hence, this Court is inclined to set aside the impugned order.

7. Accordingly, these writ petitions are disposed of with the following directions:

i) The impugned orders dated 23.08.2024 and the consequential orders dated 13.01.2025 are set aside and the

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matter is remanded back to the third respondent for fresh consideration.

ii) The petitioner is directed to file their reply along with the relevant documents within a week from the date of receipt of a copy of this order. The third respondent shall consider the petitioner's reply and pass a reasoned and speaking order in accordance with law after affording the petitioner an opportunity of personal hearing, within three weeks thereafter.

There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

17.02.2025

Index : Yes / No
Internet : Yes / No

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