

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.03.2021

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THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No. 9531 of 2020 and

W.M.P. (MD) No. 8587 of 2020

Tvl.Vectra Computer Solutions,
Rep. by its Partner,
K.K.Suresh Babu,
S/o.K.P.Krishnamurthy,
No.41, North Veli Street, II Floor,
Madurai - 625 001.

... Petitioner

Vs.

1. The Commissioner of Commercial Taxes,
O/o.The Principal and Special Commissioner of
Commercial Taxes,
Ezhilagam, Chepauk, Chennai - 600 005.
2. The Assistant Commissioner(ST),
Tamilsangam Salai Assessment Circle,
Commercial Taxes Complex,
Dr. Thangaraj Salai,
Madurai - 625 020.
3. The State Tax Officer,
Inspection Cell - III,
Commercial Taxes Complex,
Dr.Thangaraj Salai,Madurai - 625 020.
4. The State Tax Officer,
Demand Collection Cell,
Commercial Taxes Complex,
Dr. Thangaraj Salai,
Madurai - 625 020.

... Respondents



Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the impugned proceedings of the third respondent in GST DRC-07 in Reference No.ZA330120000122W dated 03.01.2020 and quash the same.

For Petitioner : Mr.B.Rooban,
for Mr.Raja Veeramanikandan.

For Respondents : Mrs.J.Padmavathi Devi,
Special Government Pleader.

O R D E R

Heard the learned counsel on either side.

2.The petitioner has registered themselves on the file of the second respondent. The petitioner was filing returns under the Tamil Nadu Value Added Tax Act, 2006 and subsequently, under the GST regime also. The petitioner's registration was cancelled on 06.09.2018 on the ground of non-filing of returns. The said defect was subsequently rectified by the petitioner. The petitioner also remitted GST dues to the tune of Rs.66,781/- together with late fee. The petitioner received notice dated 29.10.2019 in which certain defects have been pointed out. The defect includes sales omission and purchase omission also. It was also proposed to levy tax on service charges paid and discount paid. For the reasons best known to the petitioner, no reply was submitted. Thereafter, the impugned order came to be passed levying tax and penalty on the petitioner.

3.Questioning the same, this writ petition has been filed.

4. Though the respondents filed a detailed counter affidavit, the learned Government Advocate took me through its contents. In the counter affidavit, it has been pointed out that the impugned order can as well be challenged under Section 107 of the Act. Therefore according to the respondents, this writ petition is not maintainable.

5. Though very many grounds have been urged on either side, the order impugned in this writ petition has to be quashed on the simple



ground that no personal hearing was granted. The learned counsel appearing for the petitioner drew my attention to Section 75(4) of the CENTRAL GOODS AND SERVICES TAX ACT, 2017 which states that an opportunity of hearing shall be granted where a request is received in writing from the person chargeable with tax or penalty, or where any adverse decision is contemplated against such person.

6.I carefully went through the contents of the notice dated 29.10.2019 issued by the third respondent. Nowhere in the said notice, personal hearing has been afforded to the petitioner herein. In the impugned order also, it is nowhere mentioned that such opportunity was afforded to the petitioner.

7. On this sole ground, the order impugned in this writ petition is quashed. The matter is remitted to the file of the third respondent to pass orders afresh in accordance with law. This writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

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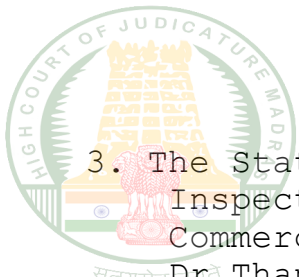
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Sub Assistant Registrar(CS)

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

1. The Commissioner of Commercial Taxes,
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Commercial Taxes,
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4. The State Tax Officer,
Demand Collection Cell,
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Dr. Thangaraj Salai,
Madurai - 625 020.

+1 CC to M/s.B.ROOBAN, Advocate (SR-14132[F] dated 29/03/2021

W.P. (MD)No.9531 of 2020

25.03.2021

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GS (21.04.2021) 4P 6C