



W.P.No.16412 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED: 09.07.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR

RAMAMOORTHY

W.P.No.16412 of 2024
and W.M.P.Nos.17970 & 17971 of 2024

M/s.Sri Velavan Traders,
Rep. By its Proprietor-T.Dhanalakshmi,
27/2, Minnakattuvalasu Main Street, Modakkurichi,
Avalpoondrai,
Erode 638 115
GSTIN:33BGQPD9414A1ZQ

... Petitioner

-vs-

The State Tax Officer,
Office of Commercial Tax Officer,
Kodumudi Assessment Circle,
Karur.

... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the impugned proceedings of the Respondent in GSTIN No:33BGQPD9414A1ZQ/2018-19 dated 08.04.2024 along with Form GST DRC-07 dated 10.04.2024, quash the same as being contrary to law and being violative of the principles of natural justice.



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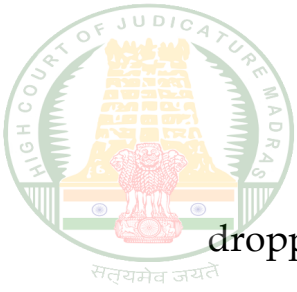
For Petitioner : Mr.S.Rajasekar

For Respondent : Mr.V.Prashanth Kiran
Government Advocate

ORDER

An order in original dated 10.04.2024 is assailed on multiple grounds, including the dropping of scrutiny proceedings by order dated 12.09.2023. Upon scrutiny of the petitioner's returns, notice in Form ASMT-10 was issued on 07.08.2023. Upon considering the petitioner's reply dated 07.09.2023, such proceedings were dropped by order dated 12.09.2023. Consequently, the petitioner asserts that she was under the impression that no further action would be taken with regard to the alleged discrepancies in returns. She further submits she was unaware of proceedings culminating in the impugned order and therefore could not participate in such proceedings.

2. Learned counsel for the petitioner referred to the notice in Form ASMT-10 and the reply thereto. Upon such proceedings being



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dropped, learned counsel submits that the respondent did not have the jurisdiction to initiate proceedings under Section 73 in respect of discrepancies in returns. He also submits that the impugned order was issued without taking into consideration the reconciliation statement in Form 9C, which was available for examination by the respondent. Out of the total confirmed tax proposal, he submits that about Rs.80 lakhs relates to the alleged excess input tax credit (ITC) claimed on account of non-reconciliation.

3. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondent. He submits that the petitioner was provided multiple opportunities to participate in proceedings by issuing show cause notice dated 28.12.2023 and three reminders dated 31.01.2024, 14.02.2024 and 28.02.2024. He further submits that the dropping of scrutiny proceedings does not preclude the assessing officer from initiating adjudication proceedings under Section 73 of applicable GST enactments.



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WEB COPY 4. The impugned order was issued after issuing show cause notice dated 28.12.2023. The admitted position is that the petitioner did not respond thereto or participate in the hearing. As a registered person under applicable GST enactments, the petitioner cannot be absolved of the responsibility of responding to the show cause notice merely on the ground that scrutiny proceedings were dropped. Learned counsel for the petitioner, however, contended that the reconciliation statement was not taken into consideration while confirming the tax proposal relating to the ITC claim on account of non-reconciliation of information. Since such tax proposal was confirmed without hearing the petitioner, reconsideration is required by putting the petitioner on terms. On instructions, learned counsel for the petitioner submits that the petitioner agrees to remit 5% of the tax demand as regards the alleged non-reconciliation in respect of ITC and 10% of the tax demand relating to other issues dealt with in the impugned order.



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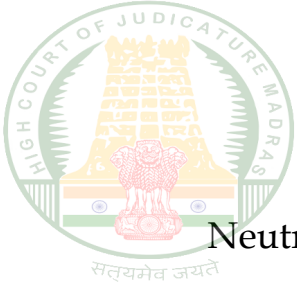
WEB COPY 5. Therefore, the impugned order dated 10.04.2024 is set aside on condition that the petitioner remits 5% of the disputed tax demand as regards the proposal relating to excess ITC claimed on account of non-reconciliation of information and 10% of the disputed tax demand with regard to other heads of tax demand within three weeks from the date of receipt of a copy of this order. The petitioner is also permitted to submit a reply to the show cause notice within the said period. Upon receipt of the petitioner's reply and on being satisfied that the above remittances were received, the respondent is directed to provide a reasonable opportunity, including a personal hearing, and thereafter issue a fresh order within three months from the date of receipt of the petitioner's reply.

6. W.P.No.16412 of 2024 is disposed of on the above terms.

Consequently, W.M.P.Nos.17970 & 17971 of 2024 are closed. No costs.

09.07.2024

Index : Yes / No
Internet : Yes / No



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Neutral Citation : Yes / No

SENTHILKUMAR RAMAMOORTHY,J

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To

The State Tax Officer,
Office of Commercial Tax Officer,
Kodumudi Assessment Circle,
Karur.

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and W.M.P.Nos.17970 & 17971 of 2024

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