



WEB COPY



W.P.No.3967 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.3967 of 2024
and W.M.P.Nos.4283, 4284 & 4286 of 2024

M/s.Shree Shyama Traders,
Represented by its Partner
Mr.Ashok Kumar Agarwal
No.80, Tandalcherry Village
Gummidipoondi Taluk
Tiruvallur District - 601 206.

... Petitioner

-vs-

1.The Assistant Commissioner (ST)
Gummidipoondi Assessment Circle
1275/3, Integrated Commercial Taxes Building,
Chennai (North) Division,
Room No.112, Ist Floor,
Elephant Gate Bridge Road,
Chennai - 600 003.

2.The Branch Manager,
Oriental Bank of Commerce
769, Spencer Plaza, Ground Floor,
Mount Road, Chennai.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of

India, pleased to issue a Writ of Certiorari, to call for the impugned proceedings of the first respondent in GSTIN/33ACDFS2959R1ZF/2018-2019 dated 11.08.2023 and quash the same as passed contrary to the facts and law and also passed contrary to the principles of natural justice.

For Petitioner : Mr.P.Rajkumar

For Respondent 1 : Mr.C.Harsha Raj, AGP

ORDER

The petitioner challenges an assessment order dated 11.08.2023 and the consequential bank attachment order dated 18.11.2023. The petitioner asserts that he was regular in filing returns. He further asserts that he was unaware of the issuance of the notice in Form ASMT-10, the show cause notice in Form DRC-01 and the assessment order dated 11.08.2023 until he received the impugned bank



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attachment order dated 18.11.2023. The present writ petition was filed in the said facts and circumstances.

2. Learned counsel for the petitioner invited my attention to the impugned assessment order and pointed out that the Input Tax Credit (ITC) availed of by the petitioner was reversed on the ground that three suppliers had issued credit notes to the petitioner. Out of the three, he submits that the petitioner did not purchase any products from MahamayaIspat, A Division of Abhishek Steel Industries Limited and that, therefore, the said entity did not issue credit notes during the relevant period. If the petitioner had knowledge of the proceedings initiated by the respondents, it is stated that the petitioner would have placed these facts on record. Learned counsel further submits that the aggregate sum of Rs.3,39,674/- was appropriated pursuant to the bank attachment order.



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3. Mr.T.N.C.Kaushik, learned Additional Government Pleader,

accepts notice on behalf of the first respondent. He submits that the reversal of ITC was on the basis of the auto populated GSTR-2A. He submits that this information was taken from the portal. Hence, he submits that no case is made out for interference.

4. The admitted position is that the entire demand under the assessment order of Rs.2,82,760/- was satisfied by way of the remittance made by the bank to the tax department. Consequently, revenue interest is fully protected at this juncture. If the contention of the petitioner that no supplies were effected by Abhishek Steel Industries Limited is found to be correct, the reversal of ITC to that extent may warrant revision. Solely for this reason, the impugned order calls for interference.

5. Therefore, the impugned assessment order dated 11.08.2023 is quashed and the matter is remanded for re-consideration by the



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first respondent. The petitioner is permitted to submit a reply to the show cause notice dated 11.07.2023 within a maximum period of *two weeks* from the date of receipt of a copy of this order. Upon receipt thereof, the first respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh assessment order within a maximum period of *two months* thereafter. For the avoidance of doubt, it is made clear that the amounts appropriated pursuant to the assessment order shall be retained subject to the outcome of the remanded proceedings.

6. W.P.No.3967 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.4283, 4284 and 4286 of 2024 are closed.

21.02.2024

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Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No

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SENTHILKUMAR RAMAMOORTHY,J

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