



WEB COPY



W.P.No.3458 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2024

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

Writ Petition No.3458 of 2024
and W.M.P.Nos.3714 to 3716 of 2024

M/s.Balaji Electrical & Hardwares,
Represented by its Proprietor Mr.G.Omprakash,
No.289/7A2B, OMR Road,
Thiruporur Junction,
Thiruporur, Chengalpattu-603 110.

... Petitioner

-VS-

1.The State Tax Officer (ST),
Thirukazhukundram Assessment Circle,
No.42-Wahab Nagar,
Thirukazhukundram,
Chengalpattu District-603 109.

2.Deputy Commissioner (ST),
Chengalpattu Zone,
No.26, Abirami Complex,
Mahalakshmi Nagar,
Thimmavaram, Chengalpattu-603 110.

3.The Branch Manager,
Federal Bank,
No.2/5, Iyyempet Street,
OMR, Thiruporur,
Chengalpattu District-603 110.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records of the impugned order in Form GST DRC-07 bearing reference GSTIN 33AASPO1043R1Z6/2017-2018 dated 14.07.2023 passed by the 1st respondent and its consequential notice dated 21.12.2023 of the 2nd respondent issued to the 3rd respondent and quash the same.

For Petitioner : Mr.E.Sathiyaraj
Mr.R.Anishkumar

For R1 & R2 : Mr.T.N.C.Kaushik,
Additional Government Pleader (T)

ORDER

The petitioner assails an assessment order dated 14.07.2023 and the consequential attachment notice dated 21.12.2023.

2. The petitioner asserts that he had filed the requisite GST returns and was unaware of the intimation, show cause notice and assessment order until the attachment order was communicated to the petitioner in December 2023. Upon coming to know of such attachment, the petitioner issued a letter dated 03.01.2024 seeking rectification on the ground that there is an error apparent on the face of the record and that there are no tax dues.



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WEB COPY 3. Learned counsel for the petitioner challenges the orders impugned herein on multiple grounds. The first ground of challenge is that the assessment order was issued under Section 74 of the Tamil Nadu Goods and Services Tax Act, 2017, but such order does not satisfy the requirements of Section 74 in as much as there are no allegations of fraud, wilful-misstatement or suppression of facts. The second ground of challenge is that the order is completely unreasoned. Learned counsel also refers to the screenshot of the GST portal and contends that the screenshot provides evidence that there is no shortfall when the GSTR-1 and GSTR-3B returns are compared. Without prejudice, he submits that the petitioner will remit 10% of the disputed tax demand if provided another opportunity before the assessing officer.

4. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice on behalf of respondents 1 & 2. He submits that the petitioner was provided sufficient opportunities by issuing an intimation, show cause notice and offering a personal hearing. Since principles of natural justice



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were adhered to, learned Additional Government Pleader submits that there is no case for interference under Article 226 of the Constitution of India.

5. The impugned assessment order refers to the intimation dated 08.05.2023 and the show cause notice dated 12.06.2023. It also records that the petitioner did not comply with the tax demand or file any objections. In these circumstances, it cannot be said that an opportunity was not provided to the petitioner to respond to the tax demand.

6. On examining the impugned assessment order and the show cause notice which preceded it, however, it is noticeable that the impugned order is unreasoned. It is also noticeable that the ingredients of Section 74 are not satisfied. For these reasons, the orders impugned herein warrant interference, albeit by putting the petitioner on terms.

7. For reasons set out above, the assessment order and the consequential attachment notice are quashed subject to the condition that the petitioner remits 10% of the disputed tax demand within a period of two



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weeks from the date of receipt of a copy of this order. Subject to fulfilment

of the above condition, the assessing officer is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh assessment order within a period of two months from the date of fulfillment of the above condition by the petitioner.

8. The writ petition is disposed of on the above terms. There will be no order as to costs. Consequently, connected miscellaneous petitions are closed.

15.02.2024

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

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To

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SENTHILKUMAR RAMAMOORTHY,J.

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