



W.P.No.4523 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 27.02.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.4523 of 2024
and W.M.P.Nos.4896 & 4898 of 2024

Tvl.Hansraj and Company
Reptd. by Mr.Hasmukh Kumar Manilal Jain,
No.32, 2nd Floor, Anna Pillai Street,
Sowcarpet, Chennai 600 001.

... Petitioner

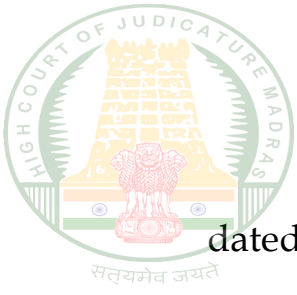
-VS-

The Assistant Commissioner, (ST),
Mannady Assessment Circle,
Integrated Commercial Taxes Buildings,
No.32, Elephant Gate Bridge Road,
Chennai 600 003.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records pertaining to the impugned order vide GSTIN-33AFRPJ3945B1ZK

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dated 25.08.2023 for the Assessment year 2017-2018 for the

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Assessment year 2017-2018 passed by the Respondent and Quash the same as illegal, arbitrary and against the principles of natural justice.

For Petitioner : Mr.K.M.Malarmannan

For Respondent : Mr.T.N.C.Kaushik, AGP (T)

ORDER

The petitioner assails an assessment order dated 25.08.2023 by which the Input Tax Credit (ITC) claimed by the petitioner was disallowed on the ground that the details submitted in the petitioner's return did not tally with that in the GSTR-2A return.

2. The petitioner is a registered person under applicable GST laws. He received show cause notice dated 27.01.2023 alleging that he had made an excess claim of ITC and that this was evident on



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comparing his GSTR-3B return with the GSTR-2A return. By reply

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dated 01.08.2023, the petitioner explained that the relevant invoice was issued by the petitioner's supplier, M/s.Kirthi Enterprises, but that they had wrongly indicated the GSTIN of the sister concern of the petitioner, namely, Premier Corporations. By stating that this reply was disregarded and the proposal to impose tax, interest and penalty was confirmed, this writ petition was filed.

3. Learned counsel for the petitioner invited my attention to invoice no.123 dated 20.09.2017 of Kirthi Enterprises. By further referring to the GSTR-1 return of Kirthi Enterprises, he pointed out that invoice no.123 was wrongly shown as having been issued to Premier Corporation. Since the availment of ITC was based on a genuine purchase by the petitioner from Kirthi Enterprises, learned counsel submits that the impugned order warrants interference.

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

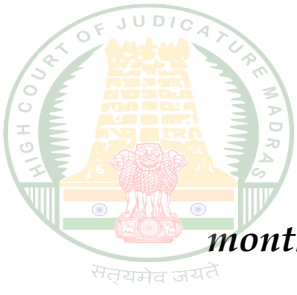


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accepts notice on behalf of the respondents. He submits that the petitioner should take recourse to rectification proceedings if the return was wrongly filed by the supplier.

5. The documents on record, such as invoice dated 20.09.2017 and the GSTR return of Kirthi Enterprises, *prima facie* indicate that the GSTIN of Premier Corporation was wrongly mentioned by Kirthi Enterprises in the return. If that is indeed the case, the petitioner would be unjustly deprived of ITC. In order to provide the petitioner with an opportunity to redress this grievance, interference with the impugned order is called for.

6. For reasons set out above, the impugned order dated 25.08.2023 is quashed and the matter is remanded to the assessing officer. 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*



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months thereafter. It is also open to the petitioner to file an appropriate petition, if necessary, to set right the error complained of by the petitioner.

7. W.P.No.4523 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.4896 and 4898 of 2024 are closed.

27.02.2024

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

To

The Assistant Commissioner, (ST),
Mannady Assessment Circle,
Integrated Commercial Taxes Buildings,
No.32, Elephant Gate Bridge Road,
Chennai 600 003.



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SENTHILKUMAR RAMAMOORTHY,J

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