



WEB COPY



W.P.No.8798 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.04.2024

CORAM

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.8798 of 2024

and

W.M.P.Nos.9798 & 9800 of 2024

Parthasarathy Narasimhan

... Petitioner

Versus

Deputy Commercial/State Tax Officer,
Thiruvallikeni Assessment Circle,
Room No.421,
Integrated Commercial Taxes Building,
Nandanam, Chennai – 600 035.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, pleaded to issue a Writ of Certiorari, to call for the records in the file of the respondent and to quash the following impugned orders:-

(i) The impugned order No.1 under Section 73 of the TNGST Act dated 20.12.2023 and the consequent Summary of the order in Form GST DRC-07 dated 20.12.2023 both passed by the respondent and both having Ref.No.ZD331223149253S in GSTIN/33AAEPN5572E1ZU/2017-18 for the Financial Year ('FY') 2017-18;



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(ii) The impugned order No.2 rejecting the application for rectification passed by the respondent in Ref.No.ZD330324090852F in GSTIN/33AEPN5572E1ZU/2017-18 dated 15.03.2024 for the Financial Year ('FY') 2017-18.

For Petitioner : Ms. N. V. Lakshmi,
for Mr. N. V. Balaji

For Respondent : Mr. T.N. C. Kaushik,
Additional Government Pleader (Tax)

ORDER

Both the assessment order dated 20.12.2023 and order dated 15.03.2024 rejecting the rectification petition are challenged in the writ petition.

2. The petitioner states that he was a registered person under applicable GST enactments. Pursuant to the request made by the petitioner, the GST registration of the petitioner was cancelled on 21.01.2021. The petitioner asserts that he was unaware of proceedings initiated thereafter and culminating in the impugned assessment order dated 20.12.2023. After coming to know of the same, the petitioner submitted a representation dated 05.02.2024 to the effect that the turnover



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of the petitioner was erroneously reported in the GSTR 1 return as Rs.9,22,89,895/- instead of Rs.92,28,895/-. According to the petitioner, the correct turnover was reported in the GSTR 3B return and the entire tax liability is on account of an inadvertent error committed while filing the GSTR 1 return.

3. By referring to the petitioner's reply dated 05.02.2024, learned counsel for the petitioner submitted that the correct turnover of Rs.9,22,89,895/- is supported by the petitioner's invoices and, therefore, the petitioner should be provided an opportunity to contest the tax demand.

4. Mr.T.N.C. Kaushik, learned Additional Government Pleader, accepts notice on behalf of the respondent. He submits that the petitioner failed to respond to any of the notices preceding the impugned assessment order. As regards the rectification order, learned Additional Government Pleader submits that it was recorded therein that a revision of assessment cannot be carried out in the rectification proceeding.



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5. The petitioner's reply dated 05.02.2024 has been placed on record. In such reply, the petitioner asserted that the correct turnover was Rs.92,28,895/- and not Rs.9,22,89,895/- as wrongly reported in the GSTR 1 return. Since the petitioner did not file the annual return for the relevant assessment period, it appears that the petitioner did not rectify this error in the annual return. A tax liability of Rs.1,48,20,834/- was imposed on the petitioner under the impugned assessment order. *Prima facie*, it appears that such tax liability had arisen only on account of the turnover reported in the GSTR 1 return. In these circumstances, the interest of justice warrants that the petitioner be provided an opportunity to establish that the genuine turnover was only Rs.92,28,895/- and not Rs.9,22,89,895/-. Solely for such reason, the impugned order calls for interference.

6. Therefore, the impugned order dated 20.12.2023 is quashed and the matter is remanded for reconsideration. The petitioner is permitted to submit a reply to the show cause notice dated 20.09.2023 by enclosing all relevant documents. Such reply shall be submitted within a maximum period of two months from the date of receipt of a copy of this order.



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Upon receipt thereof, the respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh order within a period of two months from the date of receipt of the petitioner's reply. As a corollary of the assessment order being quashed, the bank attachment is raised.

7. W.P.No.8798 of 2024 is disposed of on the above terms without any order as to costs. Consequently, the connected miscellaneous petitions are also closed.

01.04.2024

Index : No
Speaking Order : Yes
Neutral Case Citation: Yes

klr

To

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