



W.P.No.16895 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED: 02.07.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

**W.P.No.16895 of 2024**  
**and W.M.P.Nos.18586 & 18587 of 2024**

M/s.Erode Medical Centre,  
Represented by its Partner, Dr.S.Murugan,  
R.S.No.374/2, 3 & 5,  
Perundurai Road,  
Erode-638 011.

... Petitioner

-vs-

State Tax Officer-2,  
Data Analytic Unit,  
161, Meenakshi Sundaranar Salai,  
Erode-638 001.

... Respondent

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records relating to impugned order bearing GSTIN 33AADFE7394L1Z2/2018-19 Dt. 27.03.2024 passed by the respondent and quash the same.

For Petitioner : Mr.G.Natarajan

For Respondent : Mr.C.Harsha Raj, Addl. Govt. Pleader (T)

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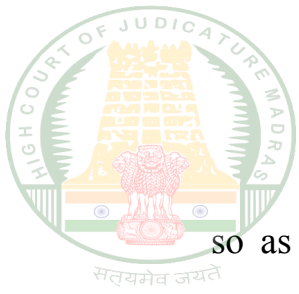


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## ORDER

**WEB COPY** In this writ petition, an order in original dated 27.03.2024 is impugned on the ground of non application of mind. Upon receipt of show cause notice dated 26.12.2023, the petitioner replied on 08.01.2024. The impugned order dated 27.03.2024 was issued thereafter.

2. Learned counsel for the petitioner referred to the impugned order and pointed out that defect no.1 related to alleged non payment of tax in respect of the sale of medicines. During this assessment period, he submits that medicines were not sold by the petitioner. They were sold either by EMC Pharmacy (HUF) or EMC Pharmacy, a partnership firm. He further submits that both these entities collected and remitted taxes in respect of such sales. Since the impugned order was issued without taking this aspect into account, in spite of the petitioner pointing it out in reply dated 08.01.2024, he submits that interference with the order is necessary. He also points out that the order deals with the imposition of tax on premises that the petitioner permitted a third party to use for running a canteen. Although the petitioner stated in the reply that rent was not collected in respect thereof



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so as to provide an additional facility to persons visiting the hospital, he

WEB COPY submits that the tax proposal was confirmed by not taking such reply into account.

3. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice for the respondent. As regards this assessment period, he submits that the factual aspects as to the identity of the supplier of medicines may be required to be reconsidered.

4. The petitioner has placed on record *prima facie* evidence that supplies were made by either EMC Pharmacy (HUF) or EMC Pharmacy, a partnership firm, during the relevant period. The invoices issued by the said entities indicate that tax was collected. It is asserted in the affidavit and in the petitioner's reply that such taxes were remitted to the Government. As regards tax on rent, the petitioner has asserted that no rent was collected since it was intended as an additional facility for persons who visit the hospital. Since these aspects were not taken into account while issuing the impugned order, the matter requires reconsideration.

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5. Therefore, the impugned order dated 27.03.2024 is set aside and the matter is remanded for reconsideration. After providing a reasonable opportunity to the petitioner, including a personal hearing, the respondent is directed to issue a fresh order within three months from the date of receipt of a copy of this order.

6. The writ petition is disposed of on the above terms without any order as to costs. Consequently, connected miscellaneous petitions are closed.

**02.07.2024**  
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Index : Yes / No  
Internet : Yes / No  
Neutral Citation: Yes / No

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To

State Tax Officer-2,  
Data Analytic Unit,  
161, Meenakshi Sundaranar Salai,  
Erode-638 001.

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**SENTHILKUMAR RAMAMOORTHY,J**

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