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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.06.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR

RAMAMOORTHY

W.P.No.13418 of 2024 and
W.M.P.Nos.14578 & 14579 of 2024

M/s.P S K Engineering Construction & Co.

Represented by its

Mr.P.Arunkumar

2/72, Kollihills Road,

Naducombai, Namakkal,

Tamilnadu-637 404.

... Petitioner

Versus

1. The Assistant Commissioner of GST & Central Excise
Audit Circle, No.1, Foulks Compound,
Anaimedu, Salem-636 001.

2. State Tax Officer,
Intelligence, Integrated Commercial Taxes Building,
Room No.207, 2nd Floor, Pitchards Road,
Hasthampathy, Salem-636 007.

3. State Tax Officer,
Legal & Revision – II, Intelligence,



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Integrated Commercial Taxes Building,
Room No.207, 2nd Floor, Pitchards Road,
Hasthampathy, Salem-636 007.

4. State Tax Officer,
Data Analytics Unit-2, Office of the
Joint Commissioner(ST)
Intelligence, Salem.

...Respondents

Prayer : A Writ Petition filed under Article 226 of the Constitution of India pleased to issue a Writ of Certiorarified Mandamus calling for the records in Order passed by the 1st Respondent vide C.No.GADT/CnG/ADT/GST/9629/2024-Gr 1-CGST-ADT dated 04.04.2024 and seeking to quash of the same as arbitrary issued by the 1st Respondent, and further quash the proceedings initiated by the Respondent and direct the Respondents to drop the proceedings taking into consideration the orders passed for the very same year by the state authorities.

For Petitioner : M/s.M.Narasimha Bharathi,
S.Muthu Venkataraman
Jayalakshmi P
Mira Aurobindo Cumar
Preetha R & Arugrahan X

For Respondents: Mr. Rajendran Raghavan,
Senior Standing Counsel for R1

Mr.V.Prashanth Kiran,



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Government Advocate for R2 to R4

ORDER

A notice under Section 65 of the Central Goods and Services Tax Act, 2017 (the CGST Act), is the subject of challenge in this writ petition.

2. By stating that State GST authorities initiated proceedings against the petitioner in respect of assessment years 2019-20, 2020-21, 2021-22 and 2022-23 and that such proceedings culminated in orders dated 29.02.2024, the present writ petition was filed on the ground that Central GST authorities cannot initiate proceedings in spite of the same subject matter.

3. Learned counsel for the petitioner referred to the show cause notices and orders issued by the State GST authorities and contended that such proceedings were comprehensive and that the Central GST authorities are endeavoring to resurrect the same issues. He further

3/7



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submits that this is impermissible as per Section 6(2)(b) of the CGST Act.

4. Mr.Rajendran Raghavan, learned senior standing counsel, accepts notice for the first respondent and Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for respondents 2 to 4.

5. Mr. Rejendran Raghavan and Mr.V.Prashanth Kiran pointed out that the prohibition under Section 6(2)(b) of the CGST Act would apply only if the subsequent proceedings by the Central GST authorities are on the same subject matter. At this juncture, they submit that the scope of audit cannot be second-guessed.

6. On perusal of the impugned audit notice, it is clear that such notice was issued while being fully aware of Section 6(2)(b). After extracting the said provision, it is recorded, in relevant part, as under:



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"... However, there is no restriction to initiate any proceeding on any other subject matter by Central Tax Authority. Accordingly, this office is intended to conduct audit under the provisions of section 65 of CGST Act as usual."

7. Provided the subject matter of audit is not the same subject matter as proceedings initiated by the State GST authorities, there is no restriction in the statute. Therefore, subject to the said observation, W.P.No.13418 of 2024 is disposed of by leaving it open to the petitioner to respond to the audit notice. Consequently, W.M.P.Nos.14578 & 14579 of 2024 are closed. No costs.

10.06.2024

Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes/ No
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SENTHILKUMAR RAMAMOORTHY J.

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