



WEB COPY



W.P.No.20384 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.08.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.20384 of 2024

and

W.M.P.Nos.22310, 22311 of 2024

A K M Balu

...Petitioner

Vs.

The Assistant Commissioner (ST)
Hasthampatty Circle,
Combined Commercial Tax Building,
Pitchards Road,
Hasthampatti,
Salem.

... Respondent

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the Respondent in impugned Form GST-DRC-01 issued in GSTIN No.:33ACFB6748K1ZK/2019-20 dated 30.05.2024 passed by the Respondent and quash the same.

For Petitioner : Ms.G.Vardini Karthik

For Respondent : Mr.C.Harsha Raj,
Additional Government Pleader (T)

ORDER



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This Writ Petition has been filed by the petitioner challenging the impugned order dated 30.05.2024 passed by the respondent for the assessment year 2019-2020.

2. Mr.C.Harsha Raj, learned Additional Government Pleader takes notice on behalf of the respondent.

3. By consent of the parties, the main Writ Petition is taken up for disposal at the time of admission itself.

4. The learned counsel for the petitioner submitted that a Show Cause Notice in Form DRC-01A dated 16.05.2024 was issued to the petitioner, stating that there are certain discrepancies in the annual returns filed by the petitioner in GSTR 9, and demanding the payment of tax along with interest. The petitioner was called upon to file his objections and was offered an opportunity of personal hearing. Pursuant to which, the petitioner filed his reply/objections to the Form DRC-01A in detail specifically pleading that the proceedings under Section 73 of the Tamil Nadu Goods and Services Tax Act (in short, TNGST Act), 2017 cannot be invoked without prior verification under Section 61 of the Act. The main contention of the petitioner is that without considering the reply



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of the petitioner and without acknowledging the receipt of the reply dated 27.05.2024 issued in Form GST DRC-01A, the respondent reiterated the same discrepancies as pointed out in Form GST DRC-01A and proceeded to pass the present impugned order. Aggrieved by the same, the petitioner has filed the present Writ petition, seeking one more opportunity from this Court to substantiate its case and to participate in the proceedings before the respondent.

5. Mr.C.Harsha Raj, learned Additional Government Pleader appearing for the respondent would submit that the conditions laid down in clause (b) of sub-section (3) of Section 15 of the Act have not been satisfied by the petitioner and therefore, the respondent proceeded to pass the impugned order.

6. Heard the learned counsel for the petitioner as well as the learned Additional Government Pleader for the respondent and perused the materials available on record.

7. A bare perusal of Section 15(3)(b) of the Act makes it clear that the value of supply of credit notes should not be excluded while determining the value of supply. Therefore, this Court is of the view that there is no illegality in the proceedings dated 30.05.2024 in Form GST DRC-01 passed by the



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respondent. However, considering the submission made by learned counsel for the petitioner that without initiating any action under Section 61 of the Act, the respondent has directly proceeded under Section 73 of the Act, and as the learned counsel for the petitioner sought an opportunity to put forth his case before the respondent, this Court is inclined to pass the following order:

- (i) The impugned order herein is set-aside.
- (ii) The petitioner is directed to file an additional reply/objection within a period of three weeks from the date of receipt of a copy of this order enclosing all relevant documents.
- (iii) On receipt of such reply/objection, the respondent is directed to deal with the matter on merits and in accordance with law, after providing an opportunity of personal hearing to the petitioner, as expeditiously as possible, without being influenced by any of the observations made by this Court.

8. With the above directions, this Writ Petition is disposed of. No costs.

Consequently, connected Miscellaneous Petitions are closed.

08.08.2024



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Speaking/Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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To
The Assistant Commissioner (ST)
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Salem.



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Krishnan Ramasamy,J.,
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