

W.P.(MD) No.12420 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 22.07.2024

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THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD)No.12420 of 2024

and

W.M.P.(MD)Nos.11062 and 11064 of 2024

Tvl.KRV Super Market,
Rep by its Proprietor,
703, Madurai Trichy Main Road,
Melur,
Madurai District - 625 106.

... Petitioner

vs.

- 1.The Government of India,
Rep. by its Director,
Ministry of Finance,
Department of Revenue,
Central Board of Indirect Taxes and Customs,
New Delhi – 110 001.
- 2.The Government of Tamil Nadu,
Rep. by its Finance Secretary,
Fort St. George, Chennai – 600 009.
- 3.The Principal Chief Commissioner of GST and
Central Excise,
Tamil Nadu and Puducherry,
26/1, Mahatma Gandhi Road,
Nungambakkam,
Chennai - 600 034.



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4.The Deputy State Tax Officer (ST),
Melur Assessment Circle,
Dr.Thangaraj Salai,
Commercial Taxes Building,
5th Floor,
Madurai - 625 020.

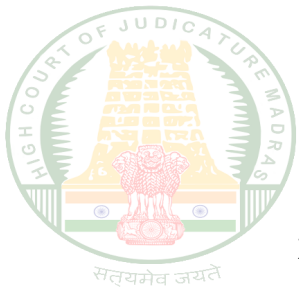
... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorari calling for the records pertaining to the impugned order issued by the 1st respondent herein in Notification No. 09/2023-Central Tax dated 31.03.2023 and the consequential proceedings issued by the 4th respondent herein in Reference No.ZD331223194059F dated 05.03.2024 and quash the same insofar as extension of time limit for the financial year 2017-18 and consequential demand under Section 73 of TNGST and CGST Act, 2017.

For Petitioner : Mr.E.V.N.Siva
For R1 : Mr.K.Kuttalanathan
For R2 and R4 : Mr.R.Suresh Kumar
Additional Government Pleader
For R3 : Mr.R.Nandhakumar
Senior Standing Counsel

ORDER

In this Writ Petition, the petitioner has not only challenged the impugned order dated 05.03.2024 passed by the fourth respondent but has also questioned Notification No.09/2023 – Central Tax dated 31.03.2023 issued under Section 168A of the CGST Act, 2017.



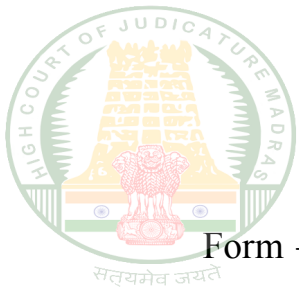
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2. Today, when the case was taken up for hearing, the learned counsel for the petitioner submits that the petitioner is giving up the prayer for challenge to Notification No.09/2023 – Central Tax dated 31.03.2023.

3. The learned counsel for the petitioner submits that the petitioner was issued with notices in Form - ASMT 10, DRC 01A and DRC 01 followed by personal hearing notices as detailed below:-

Sl. No	Date	Description
1.	25.12.2023	Notice in Form DRC 01 with personal hearing [RFN No.ZD331223194059F]
2.	30.01.2024	2 nd Personal Hearing / Reminder - 1 issued [RFN No.ZD330124149069K]
3.	07.02.2024	3 rd Personal Hearing / Reminder – 2 [RFN No.ZD330224037926F]

4. It is informed that the petitioner was unaware of the impugned order that came to be passed as notices that preceded the impugned order were hosted in the GST Common Portal and the petitioner being the Proprietary Concern was unaware of the same. Therefore, the learned counsel for the petitioner submits that one opportunity may be given to the petitioner to explain the discrepancies between the turnover reported in Form – GSTR 2A and the taxable turnover declared by the petitioner in



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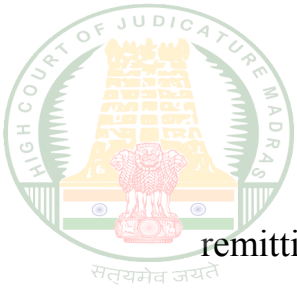
Form – GSTR 3B. It is submitted that a part of the turnover in Form –

WEB CO GSTR 2A pertains to acquisition of certain items for setting up the Super Market and therefore, the petitioner may be given an opportunity to explain the same.

5. That apart, it is submitted that not the entire turnover in Form – GSTR 2A pertains to the petitioner. It is further submitted that the sales turnover during 2018-2019 was Rs.1,78,32,788/- out of which the tax was payable only for Rs.1,34,37,477/- and the balance turnover was not taxable and hence, the learned counsel for the petitioner prays for one opportunity may be given to the petitioner to explain the discrepancies.

6. The learned Additional Government Pleader for the respondents 2 and 4 on the other hand would submit that the Writ Petition is without merits and liable to be dismissed as the petitioner has an alternate remedy by way of Appeal before the Appellate Authority.

7. Having considered the submissions made by the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents 2 and 4, I am inclined to dispose of this Writ Petition by



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remitting the case back to the fourth respondent to pass a fresh order

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subject to the petitioner depositing 10% of the disputed tax from its Electronic Cash Register within a period of 30 days from the date of receipt of a copy of this order. The impugned order which stands quashed in this order shall be treated as Addendum to the show cause notice issued to the petitioner. Subject to the petitioner complying with the above requirement within a period of 30 days, the fourth respondent shall proceed to pass fresh orders on merits and in accordance with law after hearing the petitioner. It is expected that fresh orders shall be passed within a period of three months from today.

8. In fine, this Writ Petition stands disposed of with the above observation. No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes/ No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order
smn2

22.07.2024

To

1. The Director,
Government of India,
Ministry of Finance,
Department of Revenue,
Central Board of Indirect Taxes and Customs,
New Delhi – 110 001.

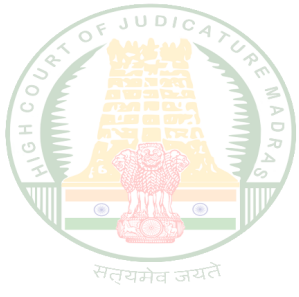


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2.The Finance Secretary to Government of Tamil Nadu,
Fort St. George,
Chennai – 600 009.

3.The Principal Chief Commissioner of GST and
Central Excise,
Tamil Nadu and Puducherry,
26/1, Mahatma Gandhi Road,
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4.The Deputy State Tax Officer (ST),
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C.SARAVANAN, J.

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