

2024 (85) G.S.T.L. 400 (Mad.)

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Senthilkumar Ramamoorthy, J.

TVL. E. CLOUDS

Versus

ASSISTANT COMMISSIONER (ST), COIMBATORE

W.P. Nos. 10610, 10614 & 10617 of 2024 and W.M.P. Nos. 11682, 11684, 11688, 11690 & 11691 of 2024, decided on 23-4-2024

Demand - Tax or ITC not involving fraud, etc. - Registration cancellation, effect of - Violation of natural justice - Due to lack of business, assessee opted for cancellation of registration and same came into effect from 31-3-2023 - Assessee was unaware of initiation of proceedings until assessee received impugned recovery notice - *HELD* : On perusal of order confirming tax proposal, it was evident that such order pertained to discrepancies between assessee's Form GSTR-3B return and auto-populated Form GSTR-2A - Especially in view of cancellation of assessee's GST registration, assessee had little reason to monitor GST portal on an ongoing basis - Matter was to be remanded for re-consideration - Section 73 of Central Goods and Services Tax Act, 2017 - Section 73 of Tamil Nadu Goods and Services Tax Act, 2017. *[paras 5 to 7]*

Matter remanded in favour of assessee

REPRESENTED BY : Shri G. Derrick Sam, for the Petitioner.

Shri V. Prashanth Kiran, Government Advocate (T), for the Respondent.

[Order (Common)]. - By these three writ petitions, orders confirming the tax proposal, imposing interest in respect thereof and the consequential recovery notice, respectively, are challenged.

2. The petitioner states that he was providing power aggregation services. Due to lack of business, he opted for cancellation of registration with effect from 31-3-2023. By asserting that the petitioner was unaware of the initiation of proceedings until the petitioner received the impugned recovery notice, the present writ petitions were filed.

3. Learned Counsel for the petitioner submits that the petitioner was unaware of proceedings especially in view of the cancellation of the GST registration. On instructions, he submits that the petitioner is willing to remit 10% of the disputed tax demand as a condition for remand.

4. Mr. V. Prashanth Kiran, Learned Government Advocate, accepts notice for respondents 1 & 2. By referring to the impugned order, he points out that such order was preceded by an intimation, show cause notice and two reminders.

5. On perusal of the order confirming the tax proposal, it is evident that such order pertains to discrepancies between the petitioner's GSTR-3B return and the auto-populated GSTR-2A. Especially in view of the cancellation of the petitioner's GST registration, the petitioner had little

reason to monitor the GST portal on an ongoing basis. Therefore, by putting the petitioner on terms, it is just and necessary to provide the petitioner with an opportunity to contest the tax demand on merits.

6. For reasons set out above, the orders impugned herein are set aside solely with a view to provide the petitioner an opportunity to contest the tax demand on merits. As a corollary, the matter is remanded for reconsideration by respondents 1 & 2 subject to the condition that the petitioner remits 10% of the disputed tax demand as agreed to within a period of two weeks from the date of receipt of a copy of this order. The petitioner is also permitted to submit a reply to the show cause notice within the aforesaid period. Upon receipt of the petitioner's reply and upon being satisfied that 10% of the disputed tax demand was received, respondents 1 & 2 are directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue fresh orders within a period of three months from the date of receipt of the petitioner's reply.

7. These writ petitions are disposed of on the above terms without any order as to costs. Consequently, connected miscellaneous petitions are closed.