

IN THE HIGH COURT OF JUDICATURE AT MADRAS

W.P.No.8451 of 2024

WEB COPY

DATED: 27.03.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.8451 of 2024
and W.M.P.Nos.9410 & 9411 of 2024

M/s.Subh Sri Agencies,
Represented by its Proprietor,
Mr.Chandramohan Damani,
No.6, Flowers Road,
Entrance 2nd Lane,
Purasaiwalkam,
Chennai 600 084.

... Petitioner

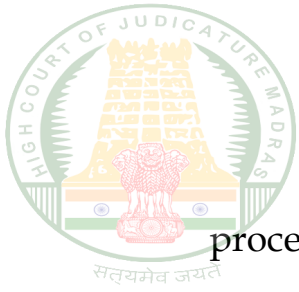
-VS-

The Deputy State Tax Officer,
Peddunaickenpet Assessment Circle,
Room No.208, 2nd Floor,
Integrated Commercial Taxes Office Building,
Chennai North Division,
N.32, Elephant Gate Bridge Road,
Chennai 600 003.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, to call for the impugned

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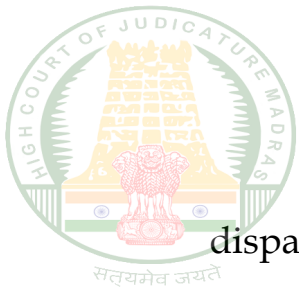
proceedings of the respondent in GSTN: 33AGWPD2341K1ZC /
WEB COPY 2017-2018 dated 09.06.2023 and the summary of the order dated
09.06.2023 in Form GST DRC-07 both issued in Reference No.
ZD330623035237M passed under Section 73 of the CGST Act, 2017
and TNGST Act, 2017 and quash the same as passed without
considering the objections dated 17.03.2023 and also contrary to the
provisions of the CGST Act, 2017 and TNGST Act, 2017.

For Petitioner : Mr.P.Rajkumar

For Respondent : Mr.T.N.C.Kaushik, AGP (T)

ORDER

An order dated 09.06.2023 is challenged in this writ petition.
The petitioner received a show cause notice dated 26.12.2022 in
respect of disparity between the petitioner's GSTR 1 and GSTR 3B
returns. By reply dated 17.03.2023, the petitioner explained the

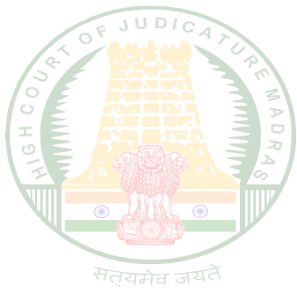


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disparity by pointing out that the error occurred on account of reflecting an amount of Rs.59,430.68/- each wrongly towards CGST and SGST instead of IGST. In spite of such reply, the impugned order was issued.

2. Learned counsel for the petitioner invited my attention to the petitioner's reply and pointed out that if amounts specified against output CGST and output SGST are added and compared with the disparity pointed out with regard to output IGST, the reason for disparity would be clear. In spite of providing such reply, learned counsel points out that the respondent confirmed the tax demand.

3. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for the respondent and submits that the impugned order is dated 09.06.2023 and that the period of limitation for filing an appeal long expired. Therefore, he submits that no case is made out for interference.



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WEB COPY 4. On examining the petitioner's reply dated 17.03.2023, it appears *prima facie* that the disparity was on account of wrongly specifying higher amounts in the GSTR 3B returns as regards output CGST and output SGST. This aspect was not duly taken note of while issuing the impugned order. At the same time, it should be noticed that the impugned order was issued in June 2023 and the petitioner has approached this Court belatedly. On instructions, learned counsel for the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

5. In the facts and circumstances set out above, the impugned order calls for interference albeit by putting the petitioner on terms. Therefore, the impugned order dated 09.06.2023 is quashed subject to the condition that the petitioner remits 10% of the disputed tax demand within *fifteen days* from the date of receipt of a copy of this order. Upon being satisfied that the above mentioned amount was



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received, the respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh order within *two months* from the date of receipt of a copy of this order.

6. W.P.No.8451 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.9410 and 9411 of 2024 are closed.

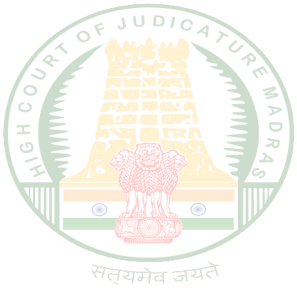
27.03.2024
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Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No

To

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SENTHILKUMAR RAMAMOORTHY,J

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