

W.P.No.33040 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated : 23.11.2023

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.33040 of 2023
and
W.M.P.Nos.32723 & 32734 of 2023

SYA Homes,
Rep by its Partner,
Mr.Raghavan Mohan,
No.F4, Apple Block,
Orchard Apartment,
85, Arcot Road, Vadapalani,
Chennai, Tamil Nadu 600 026.

... Petitioner

Vs.

1.Assistant Commissioner (ST)(FAC),
Vadapalani Assessment Circle,
No.1, PAPJM Buildings (Annex),
Ground Floor, Greams Road,
Chennai 600 006.

2.State Tax Officer,
Vadapalani Assessment Circle,
No.1, Greams Road, Annex Building,
PAPJM Building, Chennai 600 006.

... Respondents



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Prayer:

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Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records contained in order dated 17.07.2023 bearing GSTIN/33AEJFS7337D1Z0/2022-23 issued by the 1st respondent and all consequential proceedings, including recovery notice dated 25.10.2023 issued by the 2nd respondent and to quash the same as illegal, unjust, arbitrary and contrary to the principles of natural justice.

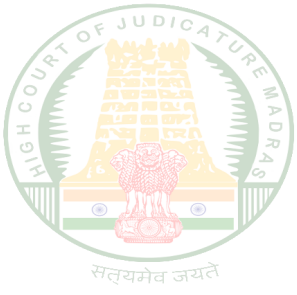
For Petitioner : Ms.Amirtha Sathyajith

For Respondent : Mr.T.N.C.Kaushik,
Additional Government Pleader

ORDER

This writ petition has been filed challenging the impugned order dated 17.07.2023 passed by the first respondent and all consequential proceedings, including recovery notice dated 25.10.2023 issued by the second respondent.

2. Mr.T.N.C.Kaushik, learned Additional Government Pleader, takes notice on behalf of the respondents. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.



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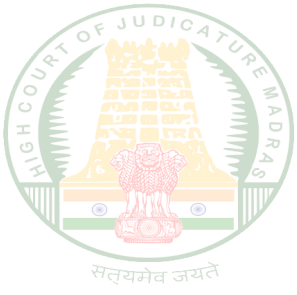
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3. The learned counsel for the petitioner would submit that the petitioner had filed the GSTR Returns for the year 2022-2023.

Thereafter, a show cause notice was issued by the respondent on 31.05.2023 and subsequent to the issuance of the said show cause notice, the assessment order came to be passed on 17.07.2023.

4. The contention of the petitioner is that the petitioner had not received any show cause notice and hence, they are not in a position to file their reply. However, according to the respondent, since they had uploaded the said show cause notice, the same was deemed to be served on the petitioner.

6. The further contention of the learned counsel for the petitioner is that there was some error in the assessment order and hence, they had filed a rectification application through online on 07.08.2023 and physically on 29.08.2023. However, the said application was not considered by the Department.



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7. In reply, the learned counsel for the respondent would submit that the respondent had received both the applications, dated 17.08.2023 and 29.08.2023, only on 01.09.2023. Further, he would submit that the Department will dispose of the same at the earliest point of time.

8. In reply, the learned counsel for the petitioner would submit that since a recovery notice was issued on 25.10.2023, the recovery proceedings will be initiated against the petitioner at any point of time.

9. Heard the learned counsel for the petitioner and the respondents and also perused the materials available on record.

10. In the present case, it appears that the show cause notice was issued to the petitioner and the petitioner had received the same. Thereafter, the assessment order was passed on 17.07.2023. However, the petitioner is not in agreement with the same, since there was an error in the said assessment order. Hence, the petitioner had filed a rectification application through online on 17.08.2023 and physically on 29.08.2023.

11. In view of the above, though this writ petition has been filed



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challenging the impugned order dated 17.07.2023, it will be sufficient to meet out the case of the petitioner if the rectification application of the petitioner is disposed of by the respondent.

12. Accordingly, this Court directs the respondents to dispose of the rectification application filed by the petitioner dated 17.08.2023 and 29.08.2023 on or before 31.12.2023. In the meantime, there shall be an order of interim stay of recovery proceedings against the petitioner.

13. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

23.11.2023

Speaking/Non-speaking order

Index : Yes / No

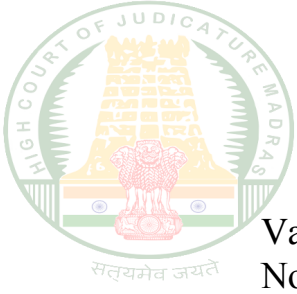
Neutral Citation : Yes / No

nsa

To

1.Assistant Commissioner (ST)(FAC),

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2.State Tax Officer,
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KRISHNAN RAMASAMY.J.,

nsa

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