



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.4436 of 2021

and

W.M.P. (MD)No.3575 of 2021

WEB COPY

Tara Exports,
Represented by its Partner,
Narayanan Bharathan
Jeyaraj Road,
Thoothukudi,
Now at Mathoorkonam, 629 151,
Kanyakumari District.

... Petitioner

-Vs-

The Assistant Commissioner (ST) (FAC)
Thoothukudi-III Circle,
Thoothukudi.

... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the respondent in TIN: 33895924459/2011-12, dated 02.02.2021 and quash the same and consequently, direct the respondent to issue a fresh notice and grant to the petitioner an opportunity to submit further reply and a personal hearing.

For Petitioner	: Mr.M.Azeem
For Respondent	: Mr.G.Arjunan Government Advocate

ORDER

Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondent. With the consent of learned counsel on both sides, the Writ Petition is taken up for final disposal at this stage itself.

2.The case on hand pertains to the assessment year 2011-12. The petitioner suffered an adverse order on 18.12.2017. Questioning the same, the petitioner filed W.P.(MD)No.6431 of 2018. This Court allowed the writ petition and set aside the order dated 18.12.2017 on the ground that personal hearing was not afforded to the petitioner. Thereafter, the petitioner was given an opportunity of personal hearing. The petitioner appeared in response thereto but sought time. The petitioner's contention is that their place of business has been shifted and that, therefore, they need some more time to gather the relevant records. This request was not accepted and the assessing authority chose to pass the impugned order dated



02.02.2021 confirming the order dated 18.12.2017. Questioning the same, this Writ Petition has been filed.

3.Though the learned counsel for the petitioner raised very many grounds to assail the impugned order. I am of the view that the impugned order has to be set aside on a short ground. It is not in dispute that the order dated 18.12.2017 passed by the respondent was quashed by me in W.P.(MD)No.6431 of 2018 on 26.03.2018. An order quashed by the High Court cannot be confirmed by the assessing officer, merely because, no material evidence was produced by the petitioner herein.

4.At this stage, I am of the view that the petitioner has to be put on terms because he did not avail opportunity of personal hearing, when the order was passed by the respondent herein. Therefore, the petitioner is directed to remit a sum of Rs.50,000/- to the respondent. The remittance of this amount will be without prejudice to the petitioner's contentions. Adjustment of the said amount will abide by the outcome of the final order that may be passed by the respondent herein. The petitioner is given time till 23.03.2021 for payment of the said amount. If the petitioner fails to remit the said amount by the said date, it is open to the respondent herein to pass final order based on the materials already available on record. If the petitioner pays Rs.50,000/- on or before 22.03.2021, the petitioner will appear before the respondent on 23.03.2021 at 11.00 a.m., with all the relevant records. After hearing the petitioner, it is open to the respondent to pass orders afresh in accordance with law. The Writ Petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To
The Assistant Commissioner (ST) (FAC)
Thoothukudi-III Circle,
Thoothukudi.



+1 CC to M/s.SPL GP (SR-9683[F] dated 09/03/2021)

+1 CC to M/s.M.AZEEM, Advocate (SR-9541[F] dated 09/03/2021)

W.P. (MD) No.4436 of 2021
and

W.M.P. (MD) No.3575 of 2021
08.03.2021

WEB COPY

SSS (CO)

KB (31.03.2021) 3P 4C