BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 01.04.2021

CORAM:
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.6952 of 2021
and
W.M.P.(MD)No.5343 of 2021

T.Suthahar ... Petitioner

-Vs-

1. The Commissioner,
CGST and Central Excise,
O/o The Commissioner of GST and Central Excise,
GST Bhavan, Central Revenue Buildings,
No.4, Lal Bahadur Shastri Road,
Bibikulam,
Madurai-625 002.

2. The Joint Commissioner,
CGST and Central Excise,
O/o The Commissioner of GST and Central Excise,
GST Bhavan, Central Revenue Buildings,
No.4, Lal Bahadur Shastri Road,
Bibikulam,
Madurai-625 002.

3. The Assistant Commissioner,
CGST & Central Excise,
Dindigul II Division,
Mengles Road,
Mendonsa Colony,
Dindigul-624001. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order-in-original No.MDU/ST/JC/02/2021 in File No.V/ST/15/68/2019-Adjn dated 28.01.2021 and consequently, to direct the second respondent to re-do the adjudication proceeding afresh by giving adequate opportunity.

For Petitioner : Mr.B.Rooban
For Respondents : Mrs.S.Ragaventhre

ORDER

Heard the learned counsel on either side.

2.The petitioner is a government contractor. The case on hand pertains to the period from 01.04.2015 to 30.06.2017. The case of the department is that the petitioner has not paid the service tax on the works contract rendered by him.

3.The case of the petitioner is that he had carried out contractual obligations only for government department and therefore, he is exempted from service tax liability.

4.Be that as it may. The show cause notice was issued to the petitioner on 12.11.2019. The petitioner had also submitted his reply along with the documents. Personal hearing notice was issued. The petitioner sought adjournment on more than one occasion. On one occasion, the death of the petitioner's auditor was said to be the reason. On the second occasion, the petitioner claimed that his mother passed away. Since the authority felt that the petitioner is dragging on the matter, straight away, the impugned order came to be passed. Questioning the same, the writ petition has been filed.

5.The primary contention urged by the petitioner's counsel is that the adjournment petition filed by the petitioner was not dealt with. He has also enclosed the death certificate of his mother.

6.I am satisfied that atleast on the latest occasions, the petitioner did have a justifiable reason. Therefore, on this ground of not affording opportunity of personal hearing, the order impugned in the writ petition is quashed. The Writ Petition is allowed. The matter is remitted to the file of the second respondent to pass orders afresh in accordance with law. I make it clear that the second respondent will issue only one more personal hearing notice. On the notified date, the petitioner is bound to appear. No reason for adjournment will be entertained by the adjudicating authority. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-II)

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Sub Assistant Registrar(CS)

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