BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.03.2022

CORAM

THE HONOURABLE MR.JUSTICE C. SARAVANAN

W.P. (MD) No. 4083 of 2022 and
W.M.P. (MD) No. 3487 of 2022

Tvl.Dhananjay Traders,
Represented by its Partner Mr.Rajesh N Patel,
No.25/1B-3, Tanjore Main Road,
Near Thuvakudi Toll Plaza,
Assor Post, Trichy - 620 015. ... Petitioner

Vs.

The State Tax Officer,
Inspection Cell-IV,
Trichy. ... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records of the respondent in GSTIN:33AAIFD2563P1Z5/2017-2018 and quash the proceedings dated 19.02.2021 as it is found invalid and not in accordance with the provisions of the Act and further direct the respondent to pass an appropriate order after issuing proper show cause notice in GST DRC-01 as per the provisions of the Act.

For Petitioner :	Mr.R.D.Ganesan
For Respondent :	Mr.K.S.Selva Ganesan Additional Government Pleader

O R D E R

Elaborate arguments were advanced by the learned counsel for the petitioner at the time of admission itself.

2.It is noted that the petitioner has challenged the impugned order dated 19.02.2021 for the assessment year 2017-18. It appears that, the petitioner's premises, where the petitioner was carrying Timber business, was inspected by the Enforcement Department on 10.09.2020 and 11.09.2020. Thereafter, the petitioner was called for personal hearing by the respondent. However, the petitioner has failed to appear, which is culminated in the impugned order.

3.The learned counsel for the petitioner submits that the impugned order is contrary to the rules inasmuch as the show cause notice ought to have been issued in FORM GST DRC-01 electronically, as per Rules 100(2) and 142(1)(a) of the Central Goods and Services Tax (CGST) Rules, 2017.

4.Opposing the submission of the learned counsel for the petitioner, the learned Additional Government Pleader for the respondent submits that despite opportunity being given, the petitioner failed to avail the opportunity of personal hearing. It is therefore submitted that the petition is liable to be dismissed on the ground of latches as the impugned order is dated 19.02.2021.

5.I have considered the arguments advanced by the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent.

6.It is to be noted that the petitioner is in default in filing GSTR-3 return for the month of February and March 2018, though for the corresponding period, the petitioner appears to have been filed GSTR-1&2 indicating the outward supply and purchases. The petitioner was issued with a notice, but the petitioner failed to respond. Thus, the impugned order has been passed. The petitioner has squandered the alternative appellate remedy by letting the limitation to expire. Now this Writ Petition has been filed to get over the limitation and pre-deposit.

7.Considering the fact that the petitioner is an aggrieved person, I am inclined to dispose of this Writ Petition with liberty by giving liberty to the petitioner to file a statutory appeal before the Appellate Commissioner within a period of thirty days from the date of receipt of a copy of this order on making mandatory pre-deposit. The Appellate Commissioner shall entertain the appeal on merits without reference to the limitation and dispose the same in accordance with law.

8.Accordingly, this Writ Petition is disposed of with the above terms. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Writs)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

vji

Note: Registry is directed to return the original impugned order after substituting the sign with the photo copy and getting endorsement from the learned counsel for the petitioner.

To

The State Tax Officer,
Inspection Cell-IV,
Trichy.

Copy To
The Section Officer
E.R.Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.R.D.GANESAN, Advocate (SR-10245[F] dated 07/03/2022)

+1 CC to M/s.SPL GP (SR-10598[F] dated 08/03/2022)

W.P. (MD) No. 4083 of 2022
and
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RS(07.04.2022) 3P-5C