BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.04.2022

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P(MD).No.7199 of 2022
and
W.M.P(MD).No.5435 of 2022

M/s.Sadhurmugan Traders
Represented by its Authorised Representative,
Mr.K.Tamil Mani,
No.284, Vishvanatha Nagar,
Oddanchatram,
Dindigul District-624 619. ... Petitioner

Vs.

The State Tax Officer (Insp.)
Inspection Cell-1,
O/o.The Deputy Commissioner (ST),
(Inspection), Madurai. ...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the impugned notice dated 07.01.2022 issued by the respondent in GSTIN/33GFBPS1533E1ZR/2018-19 and quash the same.

For Petitioner : Mr.Hari Radhakrishnan

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

ORDER

This is a second round of litigation by the petitioner. Earlier, the petitioner had suffered an assessment order for the assessment year 2018-2019 on 02.03.2020. The part of the demand was confirmed in the part of the proposal was dropped.

2. Aggrieved by the same, petitioner had filed W.P.(MD).No.8161 of 2020 etc. batch. Aggrieved by the portion dropping the proposals, the department has filed an appeal before the appellate authority. The aforesaid writ petitions were allowed vide order dated 31.08.2020. Consequent to the aforesaid order of this Court on 31.08.2020, the appeal filed by the department was also dismissed as

not maintainable vide order dated 14.03.2022. The petitioner has been now issued with an impugned show cause notice, dated 07.01.2022. The show cause notice is challenged on the ground that apart from the demands propsed in the earlier proceedings, there were proposals in the impugned order dated 20.12.2019. The so-called several new proposals as detailed below:

> *(i) To verify the eligibility of ITC claimed based on the movement of goods.*
> *(ii) Vehicle details not found with respect to 5 inward supply tax invoices*
> *(iii) Discrepancies between purchase register and inward e-way bills.*
> *(iv) Suspicion with respect to movement of goods to related parties*
> *(v) Re-quantifying the discrepancies in GSTR-3B and GSTR-2A for the Month of April 2018, May 2018 and June 2018.*
> *(vi) Discrepancies between sales register and outward e-way bills.*

3. It is submitted that these proposals are beyond the scope of the original show cause notice, dated 20.12.2019. Therefore, it is submitted that in the remand proceedings, the respondent cannot go beyond the scope of the original show cause notice, dated 20.12.2019. That apart, the learned counsel for the petitioner submits that the demand was dropped by the respondent in an earlier round cannot be reagitated once again.

4. Opposing the prayer, the learned Additional Government Pleader for the respondent submits that the order of this Court in W.P.(MD).No.8161 of 2020 etc. batch on 31.08.2020 has set aside the entire assessment order, dated 02.03.2022 and had remitted the case back to the respondent to pass a fresh order. It is submitted that as a consequence of said order, the department's appeal was also dismissed as not maintainable on 14.03.2022. It is therefore submitted that there is no merit in the submission of the learned counsel for the petitioner. That apart, it is submitted that the new proposals are not new proposals. Only further explanation has been called from the petitioner in respect of the first six proposals. Therefore, it cannot be said that the show cause notice go beyond the scope of the earlier proceedings. It is therefore submitted that the petitioner should submit to the jurisdiction of the respondent.

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

6. The assessment order which was earlier passed on 02.03.2020 has been set aside by this Court by its order, dated 31.08.2020. There is no restriction or qualification in the said order. The order dated 02.03.2020 completely stands quashed. Therefore, the department's appeal was also dismissed as not maintainable.

Therefore, I am unable to accept the contention of the learned counsel for the petitioner. The petitioner has to answer to the proposals contained in the show cause notice dated 20.12.2019, content of which has been incorporated in the impugned show cause notice dated 07.01.2022. The so-called new proposals appears to be *prima facie* covered by the first six proposals in the show cause notice, dated 20.12.2019. They are inter connected. Therefore, I do not find any merits in challenge to the impugned show cause notice by the petitioner.

7. Be that as it may, I direct the petitioner to file a detailed reply including objections which has been raised in this writ petition before the respondent. The respondent shall consider the same and pass appropriate orders on merits and in accordance with law within a period of eight weeks from the date of receipt of copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

The State Tax Officer (Insp.)
Inspection Cell-1,
O/o.The Deputy Commissioner (ST),
(Inspection), Madurai.

+1 CC to M/s.SPL.GP (SR-19370[F] dated 19/04/2022)

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