BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.08.2022

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P(MD).No.11672 of 2022
and
W.M.P(MD).No.8255 of 2022

Gramalaya,
Represented by its
Executive Director/Authorized Signatory,
Mr.M.Elangovan ... Petitioner

Vs.

The Deputy/Assistant Commissioner of GST
and Central Exercise,
GST and Central Exercise-1 Division,
No.1, Williams Road,
Cantonment, Tiruchirappalli. ...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondent to exempt from the petitioner Non-Governmental Organization registered under Section 12AA of Income Tax Act, 1961 for the purposes of providing charitable activities (Non-Profit) by considering the explanation/representation of the petitioner, dated 12.11.2021.

For Petitioner : Mr.M.Gnangurunathan
For Respondent : Mrs.S.Ragaventhre
Junior Standing Counsel

ORDER

The petitioner is an Executive Officer of Gramalaya, non-Government Organization registered under Section 12AA of the Income Tax Act, 1961. The petitioner was expertise in the construction of household toilets. The petitioner was rendering Works Contract Services by constructing Smart Toilets to M/s.VST Industries, Azamabad, Hyderabad. The petitioner has not obtained service tax registration with the department. The officers of the GST and Central Excise, Secunderabad found that M/s.VST Industries, a unit registered with the Central Excise, in order to discharge its statutory obligation of Corporate Social Responsibility, has utilized the services of the petitioner. The petitioner was not discharging the statutory liability of paying the applicable taxes on such services rendered.

2. The petitioner received a letter, dated 19.02.2021 requesting to submit registration details, taxes paid on construction of smart toilets, agreement copies entered with M/s.VST Industries, statement showing amounts received by the petitioner for construction of smart toilets, monthly reports submitted to M/s.VST Industries on construction of smart toilets, project completion report, audited fund utilization certificates, form 26AS, Income Tax Returns and annual reports for period from 2015-2016 to 20.10.2021. Though, initially steps taken by the petitioner for submitting the

documents and few documents submitted. It was not satisfactory. Hence, the show cause was issued. The petitioner sent a reply on 12.11.2021 to the show cause notice and now, filed this writ petition.

3. The learned Junior Standing Counsel for the respondent submits that the petitioner is served with show cause notice. It is a quasi judicial proceeding, which has to be decided by adjudication. In such circumstances, the petitioner having sent reply to the show cause notice, dated 12.11.2021, should have taken the show cause notice proceedings to its logical end instead filed this writ petition would not be proper. In any event, the petitioner's reply would be considered and opportunity of personal hearing will be given him to make his submission along with the documents and thereafter, show cause notice will be taken to its logical conclusion. Hence, the writ petition to be dismissed.

4. Recording the same, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

26.08.2022

Index : Yes / No
Internet : Yes/ No
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To
The Deputy/Assistant Commissioner of GST
and Central Exercise,
GST and Central Exercise-1 Division,
No.1, Williams Road,
Cantonment, Tiruchirappalli.

M.NIRMAL KUMAR, J.

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