IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.5096, 5097 & 5099 of 2020
and W.M.P.Nos.6014, 6015 & 6017 of 2020

In all W.Ps.

M/s.Sri Senthil Andavar Agencies,
rep by its Proprietor,
No.58, V.O.C.Street,
Panruti 607 106 ... Petitioner

Vs.

The State Tax Officer (ST), (INT),
CIW-1, Vellore ... Respondent

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records of the respondent in his proceedings in GSTIN:33ASYPS8615H1Z0/2017-18, 2018-19 and 2019-20, quash the common assessment order dated 24.10.2019.

In all W.Ps.

For Petitioner : Mr.P.V.Sudakar

For Respondent : Mr.V.Prashanth Kiran
Government Pleader

COMMON ORDER

By this common order, all the writ petitions are being disposed of.

2. In these Writ Petitions, the petitioner has challenged the impugned orders dated 24.10.2019 passed by the respondent for the assessment years 2017-18, 2018-19 and 2019-20.

3. It appears that the petitioner's place of business was inspected by the Enforcement Wing on 19.09.2019 and 20.09.2019. Thereafter, the petitioner was issued with a notice under Section 74(1) of the TNGST Act, 2017, (hereinafter referred to as the said Act) on 20.09.2019. It appears to be the summary of show cause notice.

4.It is the specific case of the petitioner that the petitioner has not been issued with the mandatory notice under Section 74(1) of the said Act as required under Section 142 Rule (1)(a) of the TNGST Rule, 2017. It is the case of the petitioner that the impugned orders were received by the petitioner only on 04.11.2019. The specific case of the petitioner is that the impugned orders are unsustainable as the requirements under Sections 46 and

62 of the said Act have not been complied with. The learned counsel further submitted that after filing of the Writ Petitions on 26.02.2020, on 20.02.2020, the petitioner has also filed the returns which has been accepted by the respondent. The learned counsel has also drawn attention to the Government Order in G.O.Ms.No.38, Commercial Taxes and Registration (B1), dated 05.04.2023, which reads as follow:

> **"No.II(2)/CTR/351(a-3)/2023.**
>
> *In exercise of the powers conferred by Section 148 of the Tamil Nadu Goods and Services Tax Act, 2017 (Tamil Nadu Act 19 of 2017) (hereinafter referred to as the said Act), the Governor of Tamil Nadu, on the recommendations of the Council, hereby notifies that the registered persons who failed to furnish a valid return within a period of thirty days from the service of the assessment order issued on or before the 28th day of February, 2023 under sub-section (1) of Section 62 of the said Act, as the classes of registered persons, in respect of whom said assessment order shall be deemed to have been withdrawn, if such registered persons follow the special procedures as specified below, namely,-*
>
> *(i) the registered persons shall furnish the said return on or before the 30th day of June 2023;*
>
> *(ii) the return shall be accompanied by payment of*

interest due under sub-section (1) of section 50 of the said Act and the late fee payable under Section 47 of the said Act.

Irrespective of whether or not an appeal had been filed against such assessment order under Section 107 of the said Act or whether or not the appeal, if any, filed against the said assessment order has been decided.

2. This notification shall be deemed to have come into force on 31st day of March, 2023."

Hence, it is submitted that the impugned assessment orders are liable to be quashed and the same shall be deemed to have been withdrawn.

5.Per contra, the learned counsel for the respondent submitted that the notification was conditional and even if the petitioner has filed his returns on 28.02.2020, the petitioner was also required to pay the late payment fee and the interest under Section 50 (1) of the TNGST Act, 2017. It is submitted that the petitioner has not filed any documents to substantiate that interest and late fee payable under Section 47 of the TNGST Act, 2017 have been paid.

6.The learned counsel on either side further submitted that recently the GST Council has convened a meeting, wherein, it has been decided to extend the period upto 30.09.2023 for filing of the returns and payment of interest and late fee payable under Section 47 of the TNGST Act, 2017.

7.Considering the above, the Court is inclined to set aside the impugned assessment orders which are deemed to have been withdrawn, subject to the condition that the petitioner shall complies with the second request of the aforesaid Notification, which contemplates payment of interest due under Sub-Section (1) of Section 50 of the said Act and the late fee payable under Section 47 of the said Act. The petitioner shall pay the aforesaid amount within a period of two weeks from the date of receipt of copy of this order.

8.With the above directions, the impugned orders are set aside and the Writ Petitions are allowed. Consequently, connected Miscellaneous Petitions are also closed. No costs.

20.07.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No
vkr

C.SARAVANAN, J.

vkr

To

The State Tax Officer (ST), (INT),
CIW-1, Vellore

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