IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.08.2023

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THE HONOURABLE MR.JUSTICE **C.SARAVANAN**

W.P.No.20467 of 2020
and
W.M.P.No.25241 of 2020

M/s.Subha Stores,
Represented by its Proprietrix,
No.64 MTH Road, Padi,
Chennai – 600 050. ...Petitioner

Vs

1.The Assistant Commissioner,
Korattur Circle, Zone X,
Chennai.

2.The State Tax Officer,
Survey Cell – II, Investigation-II,
Chennai – 600 006. ...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records of the second respondent in his proceedings in GST 33AAIPR1707R1ZA/2019-20, quash the order dated 10.03.2020 passed therein.

For Petitioner : Mr.P.E.R.Mangala Suvigaran

For Respondents : Mr.V.Prashanth Kiran
Government Advocate

ORDER

The petitioner has challenged the impugned Assesement order dated 10.03.2020 bearing reference No.GST 33AAIPR1707R1ZA/2019-2020. By the impugned Assessment Order, the proposal in DRC-01 dated 28.02.2020 has been confirmed. The petitioner has challenged the impugned order on the ground that it has been passed by combining the time to reply and the time to pay the amount proposed before the date of personal hearing and therefore the impugned order is liable to be quashed.

2. That apart, it is submitted that the impugned order has been passed immediately after the out break of Covid – 19 Pandemic. Therefore, the petitioner could not file a Statutory Appeal in time.

3. In support of the present case, the learned counsel for the petitioner has placed reliance on the order of this Court in W.P.Nos.21193 to 21195 of 2017 order dated 16.08.2017, wherein, it has been held that there cannot be combined notice as well as a notice for personal hearing. This view has been reiterated by this Court and by yet another order in W.P.No.3168 of 2021 vide its order dated 16.02.2021.

4. Although, there is no justification in not filing the reply to the Show Cause Notice issued to the petitioner in DRC – 01 dated 28.02.2020, the fact remains that the order came to be passed just few days before the out break of Covid – 19 pandemic.

5. This Court has taken a view in W.P.Nos.21193 to 21195 of 2017 order dated 16.08.2017, that two stages of proceeding cannot be combined. That view has been filed subsequently by an order dated 16.02.2021 as mentioned above. Court is therefore not inclined to take a different view in the present case.

6.Considering the same, the impugned order is set aside and the case is remitted back to the respondents to pass a fresh order on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order. The impugned order which stands quashed by this order shall be treated as corregendum to DRC – 01 dated 28.02.2020. The petitioner shall file reply/additional representation, if any, within a period of 15 days from the date of receipt of a copy of this order. In case, the petitioner fails to file a reply, this order shall stand automatically reovked *sine die*.

7. This writ petition stands allowed with the above observations. No costs. Consequently, connected writ miscellaneous petition is closed.

17.08.2023

(2/2)

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

1.The Assistant Commissioner,
Korattur Circle, Zone X,
Chennai.

2.The State Tax Officer,
Survey Cell – II, Investigation-II,
Chennai – 600 006.

C.SARAVANAN,J.
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