IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.08.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.25009 of 2023
and
W.M.P.Nos.24436 and 24437 of 2023

Tvl.AERO Construction and Equipments,
Represented by its Proprietor
R.Ramya,
Having Office at
No.15, Angelo Nagar,
Madhavaram, Chennai - 600 060. ... Petitioner

Vs.

The Assistant Commissioner (ST),
Manali Assessment Circle,
Integrated Commercial Taxes,
Taxes Office Complex,
Chennai - 600 003. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records pertaining to the order passed by the respondent herein in GSTIN - 33ATWPR1496G1Z2/2021-2022, dated 03.05.2023 and quash the same as illegal, arbitrary, unconstitutional and principles of natural justice.

For Petitioner : Mr.K.M.Malarmannan

For Respondent : Mr.V.Prashanth Kiran
Government Advocate

ORDER

Mr.V.Prashanth Kiran, learned Government Advocate takes notice on behalf of the respondent.

2. The petitioner has challenged the impugned order in GSTIN : 33ATWPR1496G1Z2/2021-2022 dated 03.05.2023 passed by the respondent.

3. The impugned order is an appealable order under Section 107 of the Tamil Nadu Goods and Services Tax (TNGST) Act, 2017, which precedes a notice in Form GST DRC-01A dated 18.05.2022 and a notice in Form GST DRC-01 dated 28.02.2022. Along with the aforesaid notices, the petitioner was also served with a Show Cause Notice dated 28.02.2023, a copy of which has been enclosed along with typed set of papers at Page Nos.37 and 38 wherein, specifically, the time for giving reply has been specified as 27.03.2023 and the date of personal hearing was fixed at 11.00 a.m. on 06.03.2023.

4. The petitioner has neither replied nor participated in the proceeding.

5. The learned counsel for the petitioner would submit that the Show Cause Notice was not served on the petitioner. Only, Form GST DRC-01A and Form GST DRC-01 dated 18.05.2022 and 28.02.2022 respectively were served on the petitioner.

6. The argument of the learned counsel for the petitioner appears to be highly improbable as the Show Cause Notice would have accompanied Form GST DRC-01 dated 28.02.2022.

7. All the same, considering the fact that the petitioner has not participated in the proceeding, this Court is of the view that the petitioner can be given one last opportunity to give a reply subject to the petitioner depositing 20% of the disputed tax as confirmed vide impugned order with the respondent within a period of thirty days from the date of receipt of a copy of this order.

8. Subject to such compliance, the respondent shall take up the proceeding and dispose the case afresh on its merits and in accordance with law, within a period of sixty days thereafter.

9. It is made clear if the petitioner fails to comply with the terms of this order, this order shall stand automatically vacated *sine die* without further reference.

10. This Writ Petition stands dismissed with the above liberty. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

25.08.2023

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

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To

The Assistant Commissioner (ST),
Manali Assessment Circle,
Integrated Commercial Taxes,
Taxes Office Complex,
Chennai - 600 003.

C.SARAVANAN, J.

arb

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