



W.P.No.26356 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.09.2023

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.26356 of 2023

and

WMP.Nos.25776, 25780 and 25781 of 2023

Ramesh

... Petitioner

Vs

1.The Principal Commissioner of GST and Central Excise,
(HQRS Review Section),
Coimbatore -18.

2.The Assistant Commissioner of GST and Central Excise,
Pollachi Division, Jothi Nagar "D" Colony,
Pollachi - 642 001,
Coimbatore District.

3.The Branch Manager,
Axis Bank,
No.39, Kovai Road,
Pollachi, Coimbatore District.
(IFSC:UTIB0000339)

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India,
for issuance of a Writ of Certiorari, to call for the records relating to the
impugned Order passed by the 2nd Respondent in his proceedings in



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C.No.V/ST/15/09/2022-Adj. Order SL.No.89/2022-ST(AC) in
DIN:20221159XM0000444FB4 dated 14.11.2022 and quash the same.

For Petitioner : Mr.C.Ezhilarasu

For R1 & R2 : Mrs.Hema Muralikrishnan
Senior Standing Counsel

ORDER

Mrs.Hema Muralikrishnan, learned Senior Standing Counsel takes notice on behalf of the first and second respondents.

2. This writ petition is being disposed of at the time of admission with the consent of the learned Senior Standing Counsel for the first and second respondents.

3. The challenge to the impugned Order-in-Original dated 14.11.2022 bearing reference SL.No.89/2022-ST(AC) is primarily on the ground that the petitioner has not been served with the Show Cause Notice which preceeded the impugned order which has been referred to the impugned order. Hence, it is prayed that the impugned order is to be



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set aside and the case is remitted back to the respondents in Show Cause Notice vide SCN No.04/2022-ST(AC) dated 26.04.2022.

4. The case of the petitioner is that the petitioner is a Government Contractor, who is engaged in works contract and that the impugned order has been passed in gross violation of principles of natural justice.

5. The learned Senior Standing Counsel for the first and second respondents on the other hand would submit that the writ petition is time barred and therefore it is liable to be dismissed in the light of the decision of the Hon'ble Supreme Court in **Assistant Commissioner (CT) LTU, Kakinada and others Vs. Glaxo Smith Kline Consumer Health Care Limited**, 2020 SCC Online SC 440.

6. The learned counsel for the petitioner would submit that liberty may be given to the petitioner so that the petitioner can establish the case before the respondents.



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7. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Senior Standing Counsel for the first and second respondents.

8. Court is inclined to set aside the impugned order and remit the case back to the respondents to pass a fresh order, on merits and in accordance with law, subject to petitioner depositing 25% of the disputed tax before the respondents, within a period of 30 days from the date of receipt of a copy of this order.

9. It is made clear that if the petitioner fails to deposit 25% of the amount confirmed vide impugned order as ordered now, this order shall stand automatically revoked *sine die*, in which case, the respondents are at liberty to proceed against the petitioner in accordance with law. On the other hand, if the petitioner complies with the above condition, the respondents shall take up the case for a fresh adjudication and dispose the same on merits and in accordance with law, within a period of 60 days from the date of receipt of a copy of this order.



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10. The writ petition stands disposed of with the above observations. No costs. Consequently, connected Miscellaneous Petitions are closed.

08.09.2023

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

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C.SARAVANAN, J.

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