



W.P. (MD) No. 21 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.01.2023

C O R A M

THE HONOURABLE MR.JUSTICE P.D.AUDIKEAVALU

W.P. (MD) No. 21 of 2023

and

W.M.P. (MD) No. 35 of 2023

A.Gunabalan

... Petitioner

Vs.

The State Tax Officer,
Ramanathapuram Assessment Circle,
Ramanathapuram.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the constitution of India, to issue a writ of Certiorari to call for the records of the respondent in TIN No. 33785440247/2015-16 and quash the order dated 13.12.2022 along with the consequential demand raised against the petitioner as it is unlawful and in gross violation of principles of natural justice.



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W.P. (MD) No. 21 of 2023

For Petitioner : Mr. R.D.Ganesan
For Respondent : Mr. Na.Ga.Nataraj,
Government Advocate

ORDER

Heard Mr. R.D.Ganesan, Learned Counsel for the Petitioner, Mr. Na.Ga.Nataraj, Learned Government Advocate for the Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Respondent by Proceedings in TIN No.33785440247/2015-16 dated 19.03.2021 determined the liability of the Petitioner for the year 2015-2016 as partner of M/s.Amirtham Oil Company, Ramanathapuram under the Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred to as 'the TNVAT Act' for short), which was set aside by order dated 27.07.2022 in W.P. (MD) Nos. 8012 of 2021 and remitted for fresh decision in accordance with law. Thereafter, the Respondent by Proceedings in TIN No. 33785440247/2015-16 dated 13.12.2022 again determined the liability of the



W.P. (MD) No. 21 of 2023

Petitioner as partner of M/s.Amirtham Oil Company, Ramanathapuram, which is challenged in this Writ Petition.

3. The primordial attack on the impugned order is that the Petitioner had specifically pleaded raising the objection in his representation dated 16.09.2022 before the Respondent that he had ceased to be a partner of M/s.Amirtham Oil Company, Ramanathapuram with effect from 30.04.2002 and as such, he cannot be mulcted that any liability for that firm for any liability for payment of tax thereafter, but the same has not been considered despite the express direction by this Court in the earlier order passed.

4. It is evident from the impugned order that the said objection raised by the Petitioner has not all been examined by the Respondent which vitiates the proceedings and as a consequence thereof, the impugned order has to be set aside and the matter remanded for fresh decision by the Respondent.

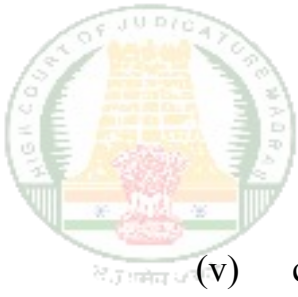
5. The result of the foregoing discussion is that the Writ Petition is



W.P. (MD) No. 21 of 2023

ordered on the following terms:-

- (i) the impugned Order in TIN No.33785440247/2015-16 dated 13.12.2022 passed by the Respondent is set aside and the matter is remitted for fresh decision before the Respondent;
- (ii) It shall be incumbent upon by the Respondent to consider the representation dated 16.09.2022 made by the Petitioner and if it is found that any other details or supporting documents are necessary, the same shall be informed in writing to the Petitioner requiring the same to be furnished within a time frame of not less than 15 clear working days for the same;
- (iii) in the event of not being satisfied with the said requirements even thereafter, an enquiry shall be conducted affording full opportunity of personal hearing to the Petitioner to explain his position in that regard and shall co-operate for the expeditious disposal of the matter;
- (iv) a reasoned order shall be passed by the Respondent dealing with each of the contentions raised on merits and in accordance with law and the decision taken communicated by 31.03.2023 under written acknowledgment;



W.P. (MD) No. 21 of 2023

(v) consequently, the connected miscellaneous petition is closed; and

(vi) there shall be no order as to costs.

03.01.2023

NCC : Yes/No

Index : Yes/No

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Note: Issue order copy by 30.01.2023.

To:

The State Tax Officer,
Ramanathapuram Assessment Circle,
Ramanathapuram.



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W.P. (MD) No. 21 of 2023

P.D.AUDIKESAVALU,J.

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W.P. (MD) No.21 of 2023

03.01.2023