BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **19.06.2023**

CORAM

THE HONOURABLE Ms.JUSTICE **P.T.ASHA**

W.P.(MD) No.7371 of 2023
and
W.M.P.(MD) Nos.6908 to 6910 of 2023

M/S.Hi Tech Horticulture,
represented by its Partner,
K.Kannan,
S/o. Krishnasamy,
3/9/52, Main Road,
Lakshmipuram,
Theni District. ... Petitioner

/vs./

1.The Deputy Commissioner (GST),
Dindigul -II, Division of Madurai Commissionerate,
Plot No.5, S.J.Complex,
Race Course Road,
Balakrishnapuram Pudur,
Dindigul 624 005.

2.The Superintendent of Central GST & Central Excise,
Theni Range,
5A-1st Floor, Vasavai Colony,
Palanichettipatti,
Theni 625 531.

3.K.Chandrasekar

4.C.Santhanalakshmi
(Cause title has been amended
vide order dated 19.04.2023) ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records of the impugned show cause notice in Ref.No.ZA3303231014943 dated 21.03.2023 of the first respondent and to quash the same as illegal.

For Petitioner : Mr.D.Srinivasaragavan

For R1 & R2 : Mr.N.Dilip Kumar
Standing Counsel

ORDER

The above writ petition is filed for the issue of a Writ of Certiorari to call for the records of the impugned show cause notice in Ref.No.ZA3303231014943 dated 21.03.2023 of the first respondent and to quash the same as illegal.

2.It is the case of the petitioner, which is a partnership firm, that they are carrying on business in rendering horticultural consultancy, landscape planning and other related jobs. They have the place of business at Dindigul, Hyderabad and Vishakapatnam and now they have started business at Theni and Secunderabad also. The petitioner firm was not registered initially, but however considering their expanding business, the petitioner had registered their firm. The petitioner had also obtained the GST registration certificate from the first respondent on 25.09.2019.

3.Meanwhile, disputes arose between the petitioner and the respondents 3 and 4 with regard to the partnership firm and he was removed from the firm on 01.04.2019. Thereafter, he received a communication from the Commissioner of EPFO, Vishakapatnam. It appears that the respondents 3 and 4 had created a forged deed of reconstitution partnership firm dated 01.04.2016. Therefore, the petitioner had filed a suit O.S.No.457 of 2019 on the file of the Principal District Munsif Court, Dindigul to declare that his removal through the deed of reconstitution of partnership dated 01.04.2019 was null and void and for an injunction restraining the defendants therein from interfering with his right to act as partner as per the original partnership deed dated 25.05.1995.

4.While so, the petitioner had received an e-mail communication on 21.03.2023 from the Commercial Tax Department together with a show cause notice calling for an explanation as to why the registration of the GST may not be cancelled since the same has been obtained by fraud, misstatement and suppression of facts. The show cause notice directed the petitioner to appear "before the undersigned" on 03.04.2023. However, the details of the official are not provided in the said show cause notice and the first respondent had also suspended the registration under GST with effect from the said date. Therefore, the petitioner has come forward with the instant writ petition.

5.Heard the learned counsels appearing on either side and perused the records.

6.The show cause notice, which is the impugned order before this Court, does not reflect the designation or name of the officer, before whom the petitioner had to appear. Therefore, when the matter had came up for admission on 08.06.2023, this Court had directed the learned counsel appearing for the respondents 1 and 2 to give the details of the official before whom the petitioner has to appear.

7.When the matter had come up today, the learned counsel has filed his counter and informed this Court that the officer concerned is the second respondent, the Superintendent of Central GST and Central Excise, Theni Range.

8.In the light of the above, the Writ Petition is disposed of with a direction that the petitioner shall answer the show cause notice dated 21.03.2023 and appear before the second respondent on 28.06.2023. The impugned notice shall be treated as the show cause notice itself. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

19.06.2023

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No

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Note : issue order copy on 26.06.2023
after carryout necessary amendment.

P.T.ASHA, J.

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W.P.(MD) No.7371 of 2023

19.06.2023