BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.07.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P(MD)No.8351 of 2023
and
W.M.P(MD)No. 7691 of 2023

Tvl.Chellam Mobiles,
Represented by Proprietor
P.Nanthini. ... Petitioner

Vs.

1. The Commissioner of Commercial Taxes,
O/o. the Principal and Special Commissioner of
Commercial Taxes,
Ezhilagam, Chepauk,
Chennai-600005.

2. The Assistant Commissioner (ST),
Aruppukottai Assessment Circle,
Commercial Taxes Office,
No.28/4, Nadar Street,
West Card Street,
Aruppukottai-626101. ... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a ***Writ of Certiorari***, calling for records pertaining to the impugned proceedings of the 2nd respondent in GSTIN / 33BCEPN19990B1ZX / 2020-21 dated 27.12.2022 and quash the same.

For Petitioner : Mr.B.Rooban

For Respondents : Mr.M.Ramesh,
Government Advocate

ORDER

This writ petition is filed for ***Writ of Certiorari*** to quash the impugned Assessment order, dated 27.12.2022.

2. Heard Mr.B.Rooban, the Learned Counsel appearing for the petitioner and Mr.M.Ramesh, the Learned Government Advocate for the respondents and perused the material documents available on record.

3. The petitioner is a proprietrix running in the name of Chellam Mobiles and is registered under GST. For the Assessment year 2020-2021 (TANVAT), the petitioner has reported the total taxable turn over as Rs.14,08,32,411/- and Rs.13,58,32,411/- respectively, through returns.

4. The 2nd respondent has issued an intimation in the Form GST DRC -01A, dated 11.08.2022, stating that there is a difference of Rs.50 lakhs in exempted turn over reported as per GSTR 3B and GSTR 1. Further the 2nd respondent has also demanded the petitioner to pay interest of Rs.550/- for the belated filing of return for the month of January 2020-2021. The respondents have issued another intimation in GST DRC - 01 dated 08.09.2022, since the explanation of the petitioner, dated 05.09.2022 was not accepted. Again, the petitioner had filed his reply, dated 20.09.2022. The respondents have fixed personal hearing on 06.10.2022. The petitioner had sought an adjournment. Again, the respondents have granted personal hearing on 09.11.2022. Since the petitioner was hospitalized, he filed an adjournment letter, dated 17.11.2022. Again, the respondents have granted another personal hearing notice, dated 06.12.2022, directing the petitioner to appear within 7 days. Since the petitioner has not appeared and also not sought any adjournment, the respondents have passed the impugned order, dated 27.12.2022.

5. The contention of the petitioner is that he has submitted relevant records, especially regarding the sales for the year 2020-2021, wherein, it is stated under the heading exempted Rs.50 lakhs. In the reply, the petitioner has categorically stated that exempted under the head of Agriculture. In the impugned order, the respondents have extracted the reply of the petitioner. However, the respondents had not dealt with the said reply and also has not referred the document which the petitioner has filed along with the reply as stated supra. In the said reply the details of sales has been specifically mentioned as Rs.50 lakhs.

6. Therefore, this Court is of the considered opinion that the respondents have not considered the reply of the petitioner along with the evidence. Further, if the respondents need any further clarification ought to have directed the petitioner to clarify and submit further evidence for sales under Agriculture. Without doing so, the respondents have mechanically passed an order. Therefore, this Court is inclined to set aside the impugned order and the same is quashed.

7. Accordingly, the respondents are directed to redo the same, within a period of 4 weeks. The petitioner is at liberty to submit further evidence, documents, especially shall submit the breakup details for seeking exemption under Agriculture. The petitioner shall cooperate for the assessment without seeking further adjournment.

8. With these observations and directions, this Writ Petition is Allowed. No Costs. Consequently, connected miscellaneous petition is closed.

24.07.2023

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

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S.SRIMATHY, J.

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