BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **09.10.2023**

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

W.P.(MD). No.23971 of 2023

M/s.Ramakrishna Enterprises,
Rep.through its Managing Partner,
R.Chandra Mohan ... Petitioner

Vs.

The Assistant Commissioner (State Tax),
O/o.The Assistant Commissioner (ST),
Tuticorin-2 Circle,
No.6R, New Cotton Road,
AVM Building, Tuticorin-628 001. ...Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, by quashing the impugned order dated 08.05.2023 issued by the respondent and to direct the respondent to hear afresh for proper calculation of GST by this Court.

For Petitioner : Mr.J.Selvin Rajesh

For Respondent : Mr.P.T.Thiraviyam
Government Advocate

O R D E R

This Writ Petition has been filed challenging the order impugned passed by the respondent under Section 73 of Tamil Nadu Goods and Service Tax Act, 2017, dated 08.05.2023, in and by which, the petitioner was directed to pay the determined tax, interest and penalty for the period 2019-2020.

2. The learned counsel appearing for the petitioner submits that the petitioner has already paid the entire tax and there are no arrears of tax. He further submits that the respondent should have scrutinized the returns and related particulars furnished by the petitioner and the details made available through various sources like DGARM, ADVAIT, GSTN, E-Way Bill Portal etc., before passing the impugned order. The GST Policy Wing has also issued certain guidelines on the issuance of summon under Section 70 of the Tamil Nadu Goods and Service Tax Act, 2017 and directed the Authorities to avoid summons calling upon the documents which are digitally visualized in the portal.

3. The learned Government Advocate appearing for the respondent submits that the respondent has noted some defects in the returns filed by the petitioner and therefore, called upon the petitioner to offer his explanation vide notices dated 15.03.2022 and 18.11.2022 and a show cause notice was also issued on 20.12.2022. Thereafter, the personal hearing notices dated 25.01.2023, 21.02.2023 and 10.03.2023 were issued to the petitioner, however, he has not availed the same and did not appear before the respondent. He further submits that as against the impugned order passed by the respondent, an appeal remedy is available before the Appellate Authority and it is ought to be filed within a period of 90 days from the date on which the said decision or order is communicated to such person. However, the learned Government Advocate, by referring to the minutes of GST Council, dated 07.10.2023, submits that the Council has recommended providing an amnesty scheme through a special procedure under Section 148 of the said Act, for taxable persons, who could not file appeal under Section 107 of the said Act, against the demand orders under Sections 73 or 74 of the said Act, passed on or before 31st day of March, 2023 and filing of appeal by the tax payers is permitted against such orders upto 31st January, 2024 with

certain conditions.

4. This Court considered the rival submissions made on either side.

5. Though the petitioner claims that he has paid the entire tax as claimed by the respondent, he did not establish the same before the respondent and when a doubt was raised in the returns filed by the petitioner, the respondent has issued notices and show cause notice and also provided an opportunity of personal hearing thrice to the petitioner, but, he did not avail the same. Therefore, this Court is not inclined to entertain the present Writ Petition. However, since the petitioner is having an appeal remedy and the time limit for filing the appeal is extended by the GST Council upto 31.01.2024, this Writ Petition is disposed of, with liberty to the petitioner to file an appeal before the Appellate Authority within a period of two weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

09.10.2023

Index: Yes/No
Internet: Yes/No
ssb

To

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B.PUGALENDHI, J.

ssb

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