BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.27806 of 2023
and
W.M.P.(MD)Nos.23910 and 23911 of 2023

Tvl. Sellasamy Murugan
Rep. by its Proprietor Mr.Murugan
No.2/179, Rayagiri Road,
Karivalamvandanallur,
Tenkasi District 627 753. ... Petitioner

versus

1. The Deputy Commissioner (State Tax)
GST Appeal,
Tirunelveli.

2. The Deputy State Tax Officer – 2 (ST),
Rajapalayam – 1 Circle,
Rajapalayam,
Virudhunagar District. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the 2nd respondent vide his order in GSTIN: 33EBDPM0701G1Z9 dated 04.05.2023 tax period 2021-2022 and quash the same as it is illegal and in gross violation of principles of natural justice and further direct the 2nd respondent to re-do the assessment afresh after providing an opportunity of personal hearing as per the provisions of the GST Act.

For Petitioner	:	Mr.A.Satheesh Murugan
For Respondents	:	Mr.G.V.Vairam Santhosh, Additional Government Pleader

ORDER

This writ petition has been filed as against the impugned order passed by the 2nd respondent dated 04.05.2023, in and by which, the petitioner was informed that he is liable to pay a sum of Rs.39,96,657/- towards SGST, CGST and IGST for the period 2021-2022 (including the penalty amount).

2. The learned counsel appearing for the petitioner submits that though the petitioner submitted his reply on 12.10.2022, the same was not considered by the respondents.

3. The learned Additional Government Pleader appearing for the respondents, by referring to the impugned order, submits that the petitioner was issued with three notice dated 15.07.2022, 18.10.2022 and 28.11.2022. The petitioner has also filed his reply on 12.10.2022 and after considering the petitioner's reply dated 12.10.2022, the impugned order has been passed.

4. It is seen that the petitioner in his reply dated 12.10.2022 has stated that though he has purchased vehicles during the Financial Year 2021-2022, there was no sale or any service during the relevant period. However, the 2nd respondent has simply rejected the petitioner's reply that it is not acceptable.

5. The case of the petitioner is that there was no sale or service during the Financial Year 2021-2022, however, the 2nd respondent has demanded the tax as stated above.

6. It appears that the impugned order does not disclose the manner in which the tax has been levied. Therefore, the impugned order passed by the 2nd respondent in GSTIN: 33EBDPM0701G1Z9 dated 04.05.2023 is hereby set aside.

7. Accordingly, this writ petition is allowed with a direction to the respondents to conduct a fresh enquiry after providing an opportunity of hearing to the petitioner and pass a reasoned order by considering the case of the petitioner that there was no sale or service during the relevant period. No costs. Consequently, connected miscellaneous petitions are closed.

28.11.2023

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

To

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2. The Deputy State Tax Officer – 2 (ST),
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   Virudhunagar District.

B.PUGALENDHI, J.

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W.P.(MD)No.27806 of 2023

28.11.2023