BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)Nos.28953 and 28954 of 2023
and W.M.P(MD).Nos.24993, 24994, 24996 to 24998 of 2023

M.Mahalingam .. Petitioner in both petitions

vs.

1.The Commissioner of GST and Central Excise,
Trichy-1 Division,
No.1, Williams Road,
Cantonment,
Tiruchirapalli-620 001.

2.Assistant Commissioner of GST & Central Excise,
Office of the Deputy/Assistant Commissioner of GST & Central Excise,
Trichy I Division,
No.1, Williams Road,
Cantonment,
Tiruchirapalli-620 001.

3.The Branch Manager,
State Bank of India,
No.24, Baba Towers,
Sastri Road,
Tiruchirapalli-620 017. .. Respondents in both petitions

Prayer in W.P(MD).No.28593 of 2023: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Ceritorari, calling for the records in relation to the impugned order in Original No.83/2022-ST in DIN No.20220359XN0100111F86, dated 18.03.2022 issued by the second respondent and quash the same as it is in gross violation of principles of natural justice is arbitrary and violative of Article 14 and 19(1)(g) of the Constitution of India.

Prayer in W.P(MD).No.28594 of 2023: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Ceritorarified Mandamus, calling for the records in relation to the impugned detention notice in file No.GEXCOM/TRA/D/ST/391/2022-CGST-DIV-1-TRY-COMMRTE-TRICHY, dated 10.01.2023 issued by the second respondent and quash the same as it is in gross violation of principles of natural justice, is arbitrary in nature and violative of Article 14 and 19(1)(g) of the Constitution of India, consequently direct the second respondent to allow the petitioner to file an Appeal against the Order in Original No.83/2022 dated 18.03.2022.

In both petitions

For Petitioner : Mr.S.Muthuvenkatraman

For Respondents : Mr.S.Raghaventhran
Standing Counsel for R1 and R2
Mr.V.Balasubramanian for R3

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C O M M O N O R D E R

These Writ Petitions have been filed challenging the impugned assessment order passed by the second respondent dated 18.03.2022 demanding service tax of Rs.38,26,706/- (Rupees Thirty Eight Lakhs Twenty Six Thousand Seven Hundred and Six only) from the petitioner for the period from April 2015 to June 2017 and the consequential detention notice issued by the second respondent dated 10.01.2023, imposing penalty and interest on the petitioner for having not paid the service tax dues.

2. The learned counsel appearing for the petitioner submits that the petitioner is a cancer patient and is aged about 76 years. Before passing the impugned orders, he has not been provided with sufficient opportunity and pursuant to the impugned orders passed by the second respondent, the account of the petitioner was freezed by the third respondent.

3. The learned counsel appearing for the respondents 1 and 2 submits that the petitioner was provided with opportunities of hearing on 31.01.2022, 16.02.2022, 18.02.2022, 03.03.2022 and 10.03.2022 and he has not utilised those opportunities and has filed this Writ Petition as if no opportunity was given to him.

4. This Court considered the rival submissions made by both sides and perused the materials available on record.

5. It appears that pursuant to the impugned orders passed by the second respondent, the third respondent Bank has freezed the account of the petitioner. Though the learned counsel appearing for the respondents 1 and 2 submits that the petitioner was provided with sufficient opportunities of hearing before passing impugned orders, since the petitioner claims that he is a cancer patient and is aged about 76 years, the impugned orders dated 18.03.2022 and 10.01.2023 passed by the second respondent are set aside on humanitarian grounds. The second respondent is directed to give one opportunity to the petitioner on **31.01.2024**. The petitioner shall appear before the second respondent on that day and explain his case. The second respondent, after providing opportunity to the petitioner, shall take a decision within a period of two weeks thereafter. Since the impugned orders passed by the second respondent are set aside, the account of the petitioner freezed by the third respondent consequent to the orders impugned passed by the second respondent is directed to be defreezed.

6. Accordingly, these Writ Petitions are allowed. There shall be no order as to costs. Connected miscellaneous petitions are closed.

08.12.2023

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

Note: Issue order copy on **22.01.2024**

To

1.The Commissioner of GST and Central Excise,
Trichy-1 Division,
No.1, Williams Road,
Cantonment,
Tiruchirapalli-620 001.

2.Assistant Commissioner of GST & Central Excise,
Office of the Deputy/Assistant Commissioner of GST & Central Excise,
Trichy I Division,
No.1, Williams Road,
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B.PUGALENDHI, J.

ssb

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