IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2024

CORAM:

THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.7673 of 2024 and
W.M.P.No.8584 of 2024

G.Rajasekaran ...Petitioner

Vs.

Deputy Commissioner,
Office of the Deputy Commissioner of Central GST
and Central Excise,
Tiruppur Division, 2nd floor,
51, Elementary school street,
Kumar nagar, Tirupur-641 603. ... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the respondent leading to issuance of impugned order vide C.No.V/15/88/2021-ST Adjn.(DC) dated 30.11.2022 and quash the same.

For Petitioner : Mr.S.Sathyanarayanan

For Respondent : Mr.Ramesh Kutty,
Senior Standing Counsel

O R D E R

An order in original dated 30.11.2022 is challenged *inter alia* on the ground that the respondent does not have the jurisdiction to revive proceedings under the Finance Act, 1994 in respect of alleged service tax liability.

2. The petitioner was a partner of M/s.Rajkrishna Logistics and Courier, which carried on business of providing courier services. The petitioner asserts that the business was closed in March 2018 and that no business was carried on thereafter. By further asserting that the petitioner became aware of proceedings culminating in the impugned order only in January 2024 when the petitioner received a call from the office of the Service Tax Department, Coimbatore, the present writ petition was filed.

3. Learned counsel for the petitioner assails the impugned order by contending that no proceedings were pending as on the date of repeal of the Finance Act, 1994 and that, therefore, these proceedings are unsustainable as per sub-section (2) of Section 174 of the Central Goods and Services Tax Act, 2017. It is further submitted that the petitioner did not receive any show cause notice or even the impugned order until January 2024.

4. Mr.Ramesh Kutty, learned senior standing counsel, accepts notice for the respondent. On instructions, he submits that the impugned order was despatched to the petitioner, but was returned unserved.

5. In view of the submission that the impugned order was returned

unserved, it is just and necessary that an opportunity be provided to the petitioner to contest the tax demand.

6. Therefore, the impugned order dated 30.11.2022 is set aside and the matter is remanded for reconsideration. The respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh order within a period of three months from the date of receipt of a copy of this order. All contentions are left open to the parties.

7. The writ petition is disposed of on the above terms. There will be no order as to costs. Consequently, connected miscellaneous petition is closed.

22.03.2024

Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

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SENTHILKUMAR RAMAMOORTHY,J.

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To

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