BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.104 of 2024
and W.M.P.(MD)Nos.119 and 120 of 2024

M/s.Palaniyappa Store,
Rep. by its Proprietor,
Palaniappan Moorthy,
No.3349, South Main Street,
Pudukottai,
Pudukottai District. ... Petitioner

versus

The Assistant Commissioner (ST),
Pudukottai – 1, Assessment Circle,
Pudukottai. ... Respondent

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorari, to call for the records pertaining to the impugned order dated 09.05.2023 passed by the respondent vide proceeding GSTIN:33AAFPM9373H1ZH/2019-20 and quash the same as illegal.

For Petitioner : Mr.C.Senthil Murugan

For Respondent : Mr.A.Baskaran
Additional Government Pleader

ORDER

This writ petition is filed challenging the order dated 09.05.2023 passed by the Assistant Commissioner (ST), Pudukottai-1 Assessment Circle, under Section 74(9) of TNGST Act 2017.

2. A surprise inspection was conducted in the petitioner's shop on 25.08.2022 and it was found that there is an excess claim in Input Tax Credit in GSTR-3B than GSTR 2A for the year 2019-2020. Thereafter, the impugned assessment order has been passed under Section 74(9) of TNGST Act 2017 and as per Rule 142(5) of CGST Rules 2017.

3. The main contention of the petitioner is that he was not provided with an opportunity of hearing before passing the impugned assessment order. The petitioner claims that he is having an appeal remedy under Section 107 of the Act, however, he cannot avail the appeal remedy due to the lapse of limitation period prescribed under the Act.

4. A perusal of the impugned order reveals that sufficient opportunities were provided to the petitioner, however, the petitioner has not availed those opportunities and has not furnished any documents before the authorities during the enquiry. Therefore, this Court is not inclined to entertain this writ petition.

5. However, considering the fact that the petitioner is having an appeal remedy under Section 107 of the Act, this writ petition is disposed of with liberty to the petitioner to work out his appeal remedy before the appeal authority, within a period of two weeks from the date of receipt of a copy of this order. In the event of filing any appeal by the petitioner, the appellate authority shall consider the same without insisting the limitation period. No costs. Consequently, connected miscellaneous petitions are closed.

31.01.2024

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

B.PUGALENDHI, J.

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To

The Assistant Commissioner (ST),
Pudukottai – 1, Assessment Circle,
Pudukottai.

W.P.(MD)No.104 of 2024

31.01.2024