BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)Nos.6808 to 6810 of 2024
and
W.M.P.(MD)Nos.6327. 6330, 6328, 6329,
6333 and 6334 of 2024

G.Alwar Muthukumar ... Petitioner in all W.Ps.

versus

1. The State Tax Officer,
   Tuticorin II Assessment Circle,
   Tuticorin.

2. The Deputy Commissioner (Appeal)
   Madurai,
   Camp at Tirunelveli,
   Ground Floor, C.T.Buildings,
   A.R.Line Road,
   Tirunelveli – 627 002.

(R2 is *suo motu* impleaded by this Court on 26.03.2024) ... Respondents in all W.Ps.

Prayer in W.P.(MD)No.6808 of 2024: Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for records pertaining to the impugned order passed by the respondent vide his order No.GSTIN: 33AJCPM2234K12G/2017-2018 dated 10.07.2023 and quash the same as it is illegal and in gross violation of Principles of Natural Justice and further direct the respondent to pass appropriate order in accordance with law after providing an opportunity of personal hearing as per the provisions of the GST Act.

Prayer in W.P.(MD)No.6809 of 2024: 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 respondent vide his order No.GSTIN:33AJCPM2234K1ZG/2020-2021 dated 10.06.2023 and quash the same as it is illegal and in gross violation of Principles of Natural Justice and further direct the respondent to pass appropriate order in accordance with law after providing an opportunity of personal hearing as per the provisions of the GST Act.

Prayer in W.P.(MD)No.6810 of 2024: 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 respondent vide his order No.GSTIN:33AJCPM2234K1ZG/2021-2022 dated 20.06.2023 and quash the same as it is illegal and in gross violation of Principles of Natural Justice and further direct the respondent to pass appropriate order in accordance with law after providing an opportunity of personal hearing as per the provisions of the GST Act.

For Petitioner
in all W.Ps. : Mr.A.Satheesh Murugan

For Respondents : Mr.A.Baskaran
in all W.Ps. Additional Government Pleader

COMMON ORDER

The orders of assessment passed by the respondent for the Assessment Years 2017-2018, 2020-2021 and 2021-22 are challenged in these writ petitions.

2. The learned counsel appearing for the petitioner submits that all the notices have been issued by the respondent only through portal and therefore, the petitioner did not follow up the same and failed to file the appeal in time. He further submits that the petitioner is having a good case before the appellate authority, however, he has not filed appeals and therefore, consequential action has been taken against the petitioner and his bank account has also been frozen. In view of the

same, the petitioner is not in a position to do his business. Therefore, he seeks some indulgence of this Court to permit the petitioner to prosecute the appeals before the appellate authority.

3. The learned Additional Government Pleader appearing for the respondent submits that the respondent, after issuing notices and by providing an opportunity of hearing, has passed the impugned assessment orders.

4. Admittedly, the notices were issued only through portal. The petitioner is not acquainted with the same and has failed to follow up the same in time. The petitioner claims that he is having a good case before the appellate authority, however, he has been wrongly advised to file these writ petitions and therefore, he seeks some indulgence of this Court to permit him to prosecute the appeals.

5. The object of any Government is to promote the trade and not to curtail the same. Any coercive action taken by the respondent without an opportunity of hearing would certainly affect the petitioner's business.

6. Therefore, this Court, in order to provide an opportunity to the petitioner, is inclined to dispose of these writ petitions with a direction to the appellate authority to take on file the appeals to be filed by the petitioner, without insisting the limitation period and decide the same on merits.

7. Since the appellate authority, namely, the Deputy Commissioner (Appeal), Madurai, is not added as a party to these writ petitions, this Court *suo motu* impleads the appellate authority, namely, Deputy Commissioner (Appeal), as a party to these writ petitions. The learned Additional Government Pleader is directed to take notice to the newly impleaded respondent.

8. Accordingly, these writ petitions are disposed of. The petitioner is directed to file appeals before the second respondent. On filing such appeals, the second respondent shall take the appeals on file, without insisting the limitation period and decide the same on merits within a reasonable time. No costs. Consequently, connected miscellaneous petitions are closed.

26.03.2024

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

To

1. The State Tax Officer,
   Tuticorin II Assessment Circle,
   Tuticorin.

2. The Deputy Commissioner (Appeal)
   Madurai,
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B.PUGALENDHI, J.

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