BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **25.06.2024**

CORAM:

**THE HONOURABLE MR.JUSTICE C.SARAVANAN**

**W.P.(MD) No.7920 of 2024**
**and**
**W.M.P.(MD) Nos.7192 & 7194 of 2024**

M/s Vivegam Travels,
Represented by its Proprietor G.Vivekanandan. ... Petitioner

Vs.

The Assistant Commissioner (ST) (Circle),
Tuticorin -II Assessment Circle,
Commercial Tax Buildings,
Tuticorin. ... Respondent

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records in GSTIN: 33ABPPV7993M1ZF/2017-18 dated 29.12.2023 on the file of the respondent and quash the same as illegal, error of law and error on the face of record and contrary to the provisions of the Goods and Service Tax Act, 2017 and direct the respondent to pass orders as per law.

For petitioner : Dr.A.Thiyagarajan
Senior Counsel for
Mr.S.Karunakar

For respondent : Mr.J.K.Jayaseelan
Government Advocate

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**ORDER**

Heard learned counsel for the petitioner and learned Government Advocate for the respondent.

2. In this Writ Petition, the petitioner has challenged the impugned assessment order passed under Section 74 of the TNGST Act, 2017 on 29.12.2023 for the assessment year 2017-18.

3. The impugned order has preceded the notice in GST DRC 01A dated 28.11.2022 and show cause notice in GST DRC 01 dated 02.01.2023. The petitioner appears to have given a reply stating that the issue for the other assessment years were in subject matter of the Writ Petition in W.P(MD).No. 25338 of 2022 and therefore, requested to defer further proceedings regarding the impugned order that preceded the inspection at the premises of the petitioner on

04.05.2022 and thereafter, the proposal was received on 10.10.2022.

4. It appears that the petitioner had GST registration during the period in dispute, however, it was cancelled on 10.09.2018 for non filing of Return for six months.

5. It is noticed that the petitioner was served with adverse orders for the assessment years 2018-19 and 2019-20 under Section 63 of the TNGST Act, 2017, which were subject matters in W.P.(MD)Nos.25338 and 25339 of 2022. Although they were cited as a reason for seeking adjournments, the respondent has, now, confirmed the demand for absence of proper reply from the petitioner.

6. Having considered the submissions made by the learned counsel for the petitioner and the learned Government Advocate for the respondent and considering the fact that petitioner has not replied to the show cause notice that preceded the impugned order, this Court is inclined to set aside the impugned order and remit the case back to the respondent to pass orders subject to the petitioner depositing 10% of the disputed tax from its Electronic Cash Register.

7. The impugned order, which stands quashed, shall be treated as addendum to the show cause notice that preceded the impugned order.

8. The petitioner shall file a reply to the show cause notice within a period of 30 days from the date of receipt of a copy of this order, along with the above deposit. The respondent shall consider the same and pass fresh orders on merits and in accordance with law as expeditiously as possible preferably within a period of three months thereafter. Needless to state, the petitioner shall be heard before passing the order.

This Writ Petition is disposed of, with above directions. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes / No
apd

**25.06.2024**
(1/2)

To

The Assistant Commissioner (ST) (Circle),
Tuticorin -II Assessment Circle,
Commercial Tax Buildings,
Tuticorin.

**C.SARAVANAN, J.**

apd

**W.P.(MD) No.7920 of 2024**

**25.06.2024**
**(1/2)**