BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.04.2024

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.8571 of 2024
&
W.M.P.(MD)Nos.7807 and 7809 of 2024

Tvl.Shakthi Mother and Child Care
Rep by its Partner
M.N.Ramesh
1st floor, I-A
Lakshmipuram 3rd street
Madurai-625001 ... Petitioner

Vs.

1 The Union of India
Rep by its Secretary, Department of Revenue,
Ministry of Finance, No. 137, North Block,
New Delhi - 110001.

2 The Goods and Service Tax Council,
Rep by its Chairman, GST Council
Secretariat, 5th Floor, Tower II, Jeevan
Bharti Building, Janpath Road,
Connaught Place, New Delhi-110001.

3 The State of Tamil Nadu
Rep by Secretary to Government, Commercial
Taxes and Registration Department,
Secretariat, Fort St George, Chennai -600009.

4 Principal Secretary / Commissioner of Commercial Taxes,
Commercial Taxes Department, Ezhiligam,

Chepauk, Chennai- 600005.

5 The State Tax Officer
Melur Assessment Circle, Madurai - 20.

6 The State Tax Officer
Munichalai Road Circle, Madurai - 20. ... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of a Certiorari calling for the records on the file of the 1st respondent in Notification No. 09/2023 - Central Tax dated 31-03-2023 the records on the file of the 3rd respondent in G.O Ms.No. 41 and the Notification dated 05-04-2023 issued therein and the records on the files of the 6th respondent in GSTN:33ACLFS3489E1ZV/2017-18 dated 31.12.2023 and quash the same as manifestly arbitrary void contrary to the provision of Section 168A of the Goods and Services Tax Act 2017 and violative of Articles 14 and 19(1)(g) of the Constitution of India and illegal without jurisdiction and against the Principles of Natural Justice.

For Petitioner : Mr.A.Chandrasekaran

For Respondents : Mr.G.Rajaraman, CGSC for R1

Mr.R.Suresh Kumar, AGP for R3 to 6

O R D E R

The petitioner has filed this Writ Petition against the impugned order dated 31.12.2023 passed by the respondents for the assessment year 2017-2018. Operative portion of the impugned order reads as under:

> " The reply of the taxable person was carefully considered. Personal hearing was afforded to them. They attended the personal hearing and explained their view with regard to the discrepancies. Hence the adjudication order is passed under Section 73 of TN-GST Act as follows:

	TAX		
Description	*IGST (Rs.)*	*CGST (Rs.)*	*SGST (Rs.)*
Expenses Receivable		*88846*	*88846*
Sundry Creditors		*13,25,992*	*13,25,992*
Total	*0*	*14,14,838*	*14,14,838*

Abstract:

	Tax	*Interest*	*Penalty*
IGST	*0*	*0*	*0*
CGST	*1414838*	*1449879*	*141484*
SGST	*1414838*	*1449879*	*141484*

Note: The interest has been calculated as on the date of passing the adjudication order. While making payment, interest for the subsequent period also to be calculated u/s. 50(1) of CGST Act @ 18% per annum.

A Notice in "DRC-07" be issued through Common portal."

2. It is noticed that the petitioner has filed a detailed reply to the notice preceded the impugned order. Despite the same, the impugned order has been passed without adverting to the same. Hence, the impugned order is unsustainable and therefore liable to be set aside and the case is remitted back to the respondents to pass fresh order on merits and in accordance with law within a period of 8 weeks from the date of receipt of a copy of this order. The impugned order which stands quashed shall be treated as corrigendum to show cause notice in DRC-01 dated 30.09.2023. Petitioner shall file additional reply if any within a period of 30 days from the date of receipt of a copy of this order. Respondents thereafter shall proceed to pass final order considering the petitioner reply dated 03.01.2024 and additional reply to be filed by the petitioner within a period of 30 days. Needless to state that the petitioner shall be heard.

Writ Petition is disposed of with the above observation. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

15.04.2024.

Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order
kpr
Copy To:

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C.SARAVANAN, J.

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