



W.P.(MD) No.8845 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.04.2024

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.8845 of 2024

&

W.M.P.(MD).Nos.8056 and 8058 of 2024

Essel Enterprises

... Petitioner

Vs.

1.The State Tax Officer
Commercial Tax Department
Tuticorin II Circle
Tuticorin District

2. The Assistant Commissioner (ST)
Tuticorin II Circle
Tuticorin District

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorari to call for the records pertaining to the impugned order of the 1st respondent in his impugned order in order No.GSTN:33ADVPL8372NIZM/2017-2018 dated 25.08.2023 and quash the same.



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For Petitioner : Mr.J.Jeyakumaran

For Respondents : Mr.J.Jeyasekar, Govt. Advocate

ORDER

This Writ Petition has been filed for issuance of a Writ of Certiorari to call for the records pertaining to the impugned order of the 1st respondent in his impugned order in order No.GSTN: 33ADVPL8372NIZM/2017-2018 dated 25.08.2023 and quash the same.

2. The petitioner has challenged the impugned assessment order passed under Sec.73 of the Tamil Nadu Goods and Services Tax Act, 2017 vide No.GSTN: 33ADVPL8372NIZM/2017-2018 dated 25.08.2023 for the assessment year 2017-2018. It is the specific case of the petitioner that the show cause notice was sent in the web portal which went unnoticed by the petitioner and thus the petitioner failed to the reply to the aforesaid show cause notice dated 09.05.2023. Hence, the petitioner prays one opportunity be given to the petitioner to meet out the allegations in the show cause notice dated 09.05.2023.



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3. Having considered the submissions made by the learned counsel for the petitioner and the submission of the learned Government Advocate for the respondents, with the consent of the learned Government Advocate appearing for the respondents, this Writ Petition is disposed of at the time of admission by setting aside the impugned order and remitting the case back to the 1st respondent to pass a fresh order on merits and in accordance with law subject to the petitioner depositing 10% of the disputed tax to the credit of the department within a period of 30 days from the date of receipt of a copy of this order. Subject to such compliance, the 1st respondent shall dispose of the show cause notice dated 09.05.2023 within a period of 60 days thereafter. Needless to state, the petitioner shall be heard. It is also made clear that petitioner shall co-operate with the 1st respondent and in case the petitioner fails to co-operate with the 1st respondent, the 1st respondent is at liberty to pass orders on merits based on the available material. It is also made clear that in case if the petitioner fails to comply with the conditions of this order, this order will stand automatically vacated *sine die* and will be treated as having been dismissed.



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4. Accordingly, this Writ Petition is allowed with the above observations. No costs. Consequently, connected miscellaneous petitions are closed.

08.04.2024

Index: Yes/ No
Neutral Citation: Yes / No
kpr

Copy To

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Commercial Tax Department
Tuticorin II Circle
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C.SARAVANAN, J.

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