BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.04.2024

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD)No.9039 of 2024
&
W.M.P.(MD).Nos.8254 and 8256 of 2024

Tvl.Mathitha Electronics Private Limited,
Rep by its Director P.Muniyadass,
No.73, Ram Nagar 3rd Street,
S S Colony, Madurai-625 016 ... Petitioner

Vs.

1. Union of India
Rep by Secretary, Department of Revenue,
Ministry of Finance No.137, North Block,
New Delhi-110 001

2 The Goods and Service Tax Council,
Rep by its Chairman, Goods and
Service Tax Council, Secretariat, 5th Floor,
Tower II, Jeevan Bharti Building, Janpath Road,
Connaught Palace,

3 The State of Tamil Nadu
Rep by its Secretary to Government,
Commercial Taxes and Registration Department,
Secretariat, Fort St George, Chennai-600 009

4 Principal Secretary/commissioner of Commercial Taxes,
Commercial Taxes Department, Ezhilagam, Chepauk,
Chennai-600005

5 State Tax Officer
West Veli Street Circle, Madurai-20 ... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorari calling for the records on the file of 1st respondent in Notification No. 09/2023 - Central Tax dated 31-03-2023 and 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 5th respondent in GSTIN 33AABCM9959J1ZZ dated 02.08.2023 relating to the Tax period 2017-18 and quash the same as manifestly arbitrary void contrary to the provision of Section168A of the Goods and Services Tax Act 2017 and violative of Articles 14 and 19(1)(g) of the Constitution of India.

For Petitioner : Mr.Raja Jeya Chandra Paul.S

For Respondents : Mr.T.Mahendran, ASC for R1

Mr.R.Suresh Jumar, AGP for R 3 to 5

O R D E R

This Writ Petition has been filed for issuance of Writ of Certiorari calling for the records on the file of 1st respondent in Notification No. 09/2023 - Central Tax dated 31-03-2023 and 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 5th respondent in GSTIN

33AABCM9959J1ZZ dated 02.08.2023 relating to the Tax period 2017-18 and quash the same as manifestly arbitrary void contrary to the provision of Section168A of the Goods and Services Tax Act 2017 and violative of Articles 14 and 19(1)(g) of the Constitution of India.

2. Learned counsel for the petitioner submits that petitioner was indisposed due to paralysis and therefore could not participate in the proceedings which have culminated in the impugned assessment order dated 02.08.2023 for the assessment year 2017-18. Having perused the impugned order passed by the 5th respondent, it is evident that petitioner has neither replied to the show cause notice nor appeared during the personal hearing. As a result of which the petitioner demand has been confirmed by the impugned order.

3. Learned counsel for the petitioner submits that the submission of the petitioner is that the petitioner is willing to remit 10% of the disputed tax as a condition for rehearing the proceedings. Same stands recorded. Recording the above submission, this Writ Petition is allowed at the time of admission with the following observations:

" (i) The impugned order is set aside and the case is remitted back to the respondents to pass a fresh order subject to the petitioner remitting 10% of the disputed tax within in a period of 30 days from the date of receipt of a copy of this order.

(ii) Impugned order which stands quashed shall also be treated as a corrigendum to the show cause notice that was issued.

(iii) Petitioner shall cooperate with the respondent by filing a suitable reply to the show cause notice which has culminated to the impugned order within 30 days of receipt of this order.

(iv) It is expected that the respondent would pass a fresh order within a period of 90 days."

There shall be no order as to costs. Consequently, connected Writ Miscellaneous Petitions are closed.

12.04.2024

Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order

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Copy To:

1. The Secretary, Department of Revenue,
 Union of India
 Ministry of Finance No.137, North Block,
 New Delhi-110 001

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C.SARAVANAN, J.

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