BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.04.2024

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.9106 of 2024
&
W.M.P.Nos.8295 and 8298 of 2024

M/s. Palaniyappa Store
Rep by its Proprietor
Palaniappan Moorthy
No.3349, South Main Street
Pudukottai, Pudukottai District ... Petitioner

Vs.

The Assistant Commissioner (ST)
Pudukottai-1, Assessment Circle
Pudukottai ... Respondent

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 impugned order dated 09.05.2023 passed by the respondent vide proceeding GSTIN:33AAFPM937HIZH/2017-18 and quash the same as illegal.

For Petitioner : Mr.C.Senthil Murugan

For Respondent : Mr.J.K.Jeyaselan, Govt. Advocate

ORDER

 Writ Petition is filed seeking for issuance of Writ of Certiorari to call for the records pertaining to impugned order dated 09.05.2023 passed by the respondent vide proceeding GSTIN:33AAFPM937HIZH/2017-18 and quash the same as illegal.

2. Petitioner has challenged the impugned assessment order dated 09.05.2023 for the assessment year 2017-18 passed under the Provisions of Tamil Nadu GST Act, 2017. Already, the petitioner had challenged a similar order for the assessment year 2022-23 in W.P.(MD).No.8985 of 2024, which came to be disposed on 10.04.2024 with the following observation:

> *" i.The petitioner is directed to deposit the disputed tax of Rs.14152.00 towards CGST and Rs. 14152.00 towards SGST, within a period of 30 days from the date of receipt of a copy of this order.*
>
> *ii.The petitioner shall also simultaneously file an appeal before the Appellate Authority under Section 107 of the TNGST Act, 2017.*
>
> *iii.If such appeal is filed, the Appellate Authority shall entertain and dispose of the appeal without reference to the limitation on merits.*

iv.In case the petitioner fails to either deposit the amount or file an appeal within such time, the respondent will be at liberty to proceed further for recovery of tax from the petitioner.

v.In case the petitioner succeeds in the appeal, the amount paid by the petitioner shall be refunded back to the petitioner. In case the assessment order is upheld by the Appellate Authority in the appeal to be filed by the petitioner, the respondent shall recover further amount towards interest and penalty if any from the petitioner."

3. A reading of the impugned order indicates that the petitioner has not participated in the proceedings. It is the further case of the petitioner that petitioner was unaware of the communication of the notices that preceded the impugned order or the impugned order itself and that the petitioner came to know about the proceedings only after recovery notices were issued.

4. I have considered the submissions of the learned counsel for the petitioner and the respondent.

5.This Court is of the view that petitioner can be given a fresh opportunity to participate in the proceedings before the 1st respondent on payment of 10% of the disputed tax within a period of 30 days from the date of receipt of a copy of this order. Subject to payment of the above said amount, the 1st respondent shall hear the petitioner on merits and dispose the case. The impugned order stands quashed with the above liberty.

With the above observations, the Writ Petition stands disposed of. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

12.04.2024

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

Copy To:

The Assistant Commissioner (ST)
Pudukottai-1, Assessment Circle
Pudukottai

C.SARAVANAN, J.

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W.P.(MD)No.9106 of 2024

12.04.2024