BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.04.2024**

CORAM:

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

W.P.(MD) No.9963 of 2024
and
W.M.P.(MD) Nos.9006 and 9007 of 2024

Sri Ramana Agencies,
rep. by its Proprietor,
Sivasubramanian Chidambaram,
No.43, Big Bazaar Street,
Pattukottai 614 601,
Thanjavur District. ... Petitioner

/vs./

The State Tax Officer,
Pattukottai II Assessment Circle,
CT Buildings,
Pattukottai,
Thanjavur District. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records of the respondent in GSTIN. 33AHUPC1300N1ZI/2017-18 dated 29.09.2023 and the summary of the order in Ref.No.ZD330923230813H dated 29.09.2023 and quash the same as illegal, against the provisions of law and without the authority of law and against the principles of natural justice.

For Petitioner : Mr.A.Chandra Sekaran

For Respondent : Mr.R.Suresh Kumar
Additional Government Pleader

ORDER

Mr.R.Suresh Kumar, learned Additional Government Pleader takes notice for the respondent.

2.The petitioner is aggrieved by the impugned order dated 29.09.2023 in his proceedings bearing Ref.No.GSTIN:33AHUPC1300N1ZI/2017-18.

3.By the impugned order, the demand proposed in the notices that preceded the impugned order has been confirmed. Apart from the demand that was confirmed, the petitioner has also been imposed with penalty under Section 73(9) of TNGST Act, 2017 and interest at 18% under Section 50(1) of TNGST Act, 2017.

4.The impugned order has been passed, as the petitioner failed to reply as also appear for personal hearing, as it evident from reading of the impugned order, relevant portion of which is extracted below:-

> *"Note: Interest should be calculated upto the date of actual payment of the above differential tax due.*
>
> *Accordingly, ASMT 10 notice, DRC-01 A intimation notice and show cause notice in DRC 01 have been issued in the references cited. On receipt of the notices, the dealer did not file any objections so far. Personal hearing also provided to the dealer in the stage of ASMT 10 notice on 18-5-2023 @ 3PM and 29-8-2023 @2.00 PM and 22-9-2023 @4.00 pm, but the dealer not appeared and not filed any objections as on date. It is presumed that there is none to offer regarding the defect pointed out in the notice.*
>
> *Therefore I confirm the above proposal and determine the differential tax due to be payable for the assessment year 2017-18 u/s.73(1) of the TNGST Act 2017, is detailed below.*
> *Differential tax liability determined under CGST: Rs.1,49,921-00*
> *Differential tax liability determined under SGST: Rs. 1,49,921-00*
> *Total differential tax liability determined :Rs.2,99,842-00"*

5.*Ex post facto* on 30.12.2023, the petitioner has paid the disputed tax, as has been confirmed vide the impugned order. The petitioner seeks indulgence to explain that no case was made out in the impugned order and therefore prays for setting aside the impugned order, as the petitioner failed to notice that the notices that preceded the impugned order were hosted in the portal and that the petitioner was unaware of the impugned order dated 29.09.2023.

6.Having considered the submission made by the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent and considering the fact that the petitioner has paid the disputed tax on 30.12.2023, this Court is inclined to set aside the impugned order and remit the case back to the respondent to pass a fresh order on merits and in accordance with law within a period of 60 days from the date of receipt of a copy of this order. The petitioner shall file reply/objection within a period of 30 days from the date of receipt of a copy of this order. The impugned order, which stands quashed, shall be treated as corrigendum to the show cause notice issued to the petitioner.

7.The Writ Petition stands allowed, accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No
Internet : Yes / No
mm

23.04.2024

To

The State Tax Officer,
Pattukottai II Assessment Circle,
CT Buildings,
Pattukottai,
Thanjavur District.

C.SARAVANAN, J.

mm

W.P.(MD) No.9963 of 2024

23.04.2024