BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **18.04.2024**

CORAM:

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

W.P.(MD) No.9555 of 2024
and
W.M.P.(MD) Nos.8659 and 8660 of 2024

M/S.LTMS Hollow Blocks,
rep. by its Proprietor, Muthukutti,
No.8/89-2, Main Road,
Poosaithalpatti,
Gunaramanallur,
Tenkasi 627 814. ... Petitioner

/vs./

The Deputy State Tax Officer-1,
Tenkasi Assessment Circle,
Tenkasi. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for records pertaining to the impugned order passed by the Respondent vide his order in GSTIN. 33BGJPM0648G1ZI/2018-2019 dated 01-08-2023 and quash the same as it is illegal and in gross violation of Principles of Natural Justice and further direct the respondent to re-do the assessment afresh after providing an opportunity of Personal Hearing as per the provisions of the GST Act.

For Petitioner : Mr.A.Satheesh Murugan
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 has filed this writ petition for a Writ of Certiorarified Mandamus to call for records pertaining to the impugned order passed by the respondent bearing Ref.No.GSTIN.33BGJPM0648G1ZI/2018-2019 dated 01-08-2023, to quash the same and to direct the respondent to re-do the assessment afresh after providing an opportunity of personal hearing to the petitioner as per the provisions of the GST Act, 2017.

3.It is noticed that the impugned order has been passed without issuance of intimation in DRC-01A and also without issuance of a notice for personal hearing. That apart, it is noticed that the impugned order also does not contain any reasonings, because the petitioner has failed to respond to the notices issued in DRC-01 dated 04.05.2022.

4.The learned counsel for the petitioner would further submit that the petitioner has paid the disputed tax on 10.02.2024 through the Electronic Credit Ledger. Copy of the extract from the Electronic Credit Ledger for the period between 09.01.2024 and 15.04.2024 has been filed today separately by the learned counsel for the petitioner. Serial No.3 confirms the same. The learned counsel for the petitioner seeks one liberty for the case to be heard again, so that the petitioner will be able to establish the case on merits before the respondent.

5.The learned Additional Government Pleader, on the other hand, would submit that the writ petition is liable to be dismissed, as the dispute pertains to the assessment year 2018-19 and the impugned order was passed as early as on 01.08.2023.

6.It is submitted that as per the decision of the Hon'ble Supreme Court in ***Assistant Commissioner (CT) LTU, Kakinada and others Vs. Glaxo Smith Kline Health Care Limited*** reported in ***2020 SCC Online SC 440***, there is no scope for interfering with the impugned order, as the writ petition has been filed beyond the statutory period, within which an appeal could have been filed by the petitioner under Section 107 of TNGST Act, 2017, before the appellate Authority, namely the Deputy Commissioner (GST Appeals) (State Tax), Madurai and Tirunelveli @ CT Buildings, A.R.Line Road, Palayamkottai, Tirunelveli.

7.The learned Additional Government Pleader would further submit that although the impugned order was posted in the web-portal, notice in Form ASMT-10 and notice in DRC-01 dated 04.05.2022 were also sent by Registered Post. He would therefore submit that full opportunity was given to the petitioner, but the petitioner failed to respond the same.

8.Having considered the submissions 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 already paid the disputed tax and also considering the fact that the impugned order does not contain any other discussion on facts except pointing out the mistake on the part of the petitioner to respond to the notices issued, I am inclined to interfere with the impugned order by setting aside the impugned order by remitting 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. Before passing such order, the petitioner shall file a reply to the notices issued to the petitioner within a period of 30 days from the date of receipt of a copy of this order together with required documents.

9.With the above directions, the Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No
Internet : Yes / No
mm

18.04.2024

To

The Deputy State Tax Officer-1,
Tenkasi Assessment Circle,
Tenkasi.

C.SARAVANAN, J.

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W.P.(MD) No.9555 of 2024

18.04.2024