BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.04.2024**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.9789 of 2024
and
W.M.P.(MD) No.8838 of 2024

M/s.Signware Solutions,
GSTIN 33ACRPJ6721G2ZJ,
Representation by it Proprietor A.Jerald,
10, Jawahar 2nd street, S.S.Colony,
Madurai – 16. ... Petitioner

Vs.

The Deputy State Tax Officer-2,
Madurai Rural (South) Assessment Circle,
Madurai. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records on the file of the respondent in GSTIN: 33ACRPJ6721G2ZJ/2021-22 dated 10.08.2023 and to quash the same and direct the respondent to issue notice to the petitioner then pass an assessment order afresh after affording an sufficient opportunity within such time as may be directed by this Court.

For Petitioner : Mr.N.Sudalaimuthu

For Respondent : Mr.J.K.Jayaselan
Government Advocate

ORDER

This Writ Petition has been filed challenging the impugned order, dated 10.08.2023 passed by the respondent in his proceedings bearing reference GSTIN: 33ACRPJ6721G2ZJ/2021-22.

2. By the impugned order, the respondent has confirmed the demand proposed in the show cause notice issued to the petitioner and has also imposed penalty.

3. The specific case of the petitioner is that the petitioner was issued show cause notice, which was uploaded in the portal. However, the petitioner failed to reply.

4. It is further submitted that the petitioner is a vendor for M/s.Bharat Petroleum Corporation Limited and was unaware of the posting of the show cause notice, that preceded to the impugned order. It is further submitted that the petitioner was also unaware of the impugned order and thus, failed to file the Statutory Appeal in time before the Appellate Commissioner under Section 107 of

the TNGST Act, 2017.

5. The learned counsel for the respondent, on the other hand, would submit that Writ Petition is devoid of merits. It is submitted that as per the decision of the Hon'ble Supreme Court in the case of ***Assistant Commissioner (CT) LTU, Kakinada and others vs. Glaxo Smith Kline Consumer Health Care Limited*** reported in ***2020 SCC Online SC 440,*** the Writ Petition, at this stage, after the assessment order was passed on 10.08.2023, is not maintainable.

6. I have considered the arguments advanced by the petitioner and the learned Government Advocate for the respondent.

7. Having considered the fact that the respondent has already recovered a sum of Rs.34,274/- (Rupees Thirty Four Thousand Two Hundred and Seventy Four only), after the order was passed. Court is inclined to give one opportunity to the petitioner. Hence, the impugned order is quashed and the matter is remitted back to the respondent to pass fresh orders on merits in accordance with law, subject to the petitioner depositing another 10% of the disputed amount, which

remains unpaid, as on date, over and above Rs.34,274/- (Rupees Thirty Four Thousand Two Hundred and Seventy Four only) recovered from the petitioner's Bank Account. The amount shall be paid by the petitioner together with the reply to the show cause notice that preceded to the impugned order.

8. The impugned order, which stands quashed, is treated as corrigendum to the show cause notice issued to the petitioner. The petitioner shall file his reply within the said time together with the deposit. Subject to the compliance, the respondent shall pass an appropriate order preferably within the period of 45 days from the date of receipt of a copy of this order. It is needless to say that the petitioner shall also appear in person.

Accordingly, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
Internet : Yes / No
apd

23.04.2024

To

The Deputy State Tax Officer-2
Madurai Rural (South) Assessment Circle
Madurai.

C.SARAVANAN, J.

apd

W.P.(MD) No.9789 of 2024

23.04.2024