BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **24.04.2024**

CORAM:

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

W.P.(MD) No.9600 of 2024
and
W.M.P.(MD) Nos.8696 and 8697 of 2024

Panchavarnam Saravanan ... Petitioner

/vs./

The Assistant Commissioner (ST),
Madurai Rural East Circle,
CT Complex, Dr.Thangaraj Salai,
K.K.Nagar,
Madurai 626 020. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for records from the file of respondent in impugned assessment order dated 28.12.2023 and impugned summary order in For DRC - 07 dated 28.12.2023 passed for the Tax period 2017-18 and quash the same as void ad initio, illegal, arbitary, and violative of principles of natural justice.

For Petitioner : Mr.B.Sivaraman
For Respondent : Mr.R.Suresh Kumar
Additional Government Pleader

ORDER

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

2.This Writ Petition is disposed of at the time of admission with the consent of the learned Additional Government Pleader for the respondent.

3.The petitioner has challenged the impugned order dated 28.12.2023 passed by the respondent, wherein the proposal made in the show cause notice on 22.09.2023 in Form GST DRC–01 has been confirmed by the respondent. The petitioner has not replied to the show cause notice and has not appeared when the case was listed for personal hearing on 01.12.2023. Under these circumstances, the petitioner has now challenged the impugned order alleging violation of principles of natural justice.

4.The learned counsel for the petitioner would draw attention to the decision of this Court rendered on ***29.01.2024 in W.P.No.4122 of 2022 (Sakthi Steel Trading, rep. By its Proprietor, M.S.Bakkir Mydeen Vs. The Assistant***

Commissioner (ST), Vandavasi Assessment Circle, Vandavasi).

5.That apart, the learned counsel for the petitioner has also placed reliance on the following decisions:-

> "*i) In **W.P.Nos.22369 of 2023 and batch (M/S.Sabari Infra Private Limited Vs. The Assistant Commissioner, (ST), Chennai) dated 31.07.2023**;*
> *ii) In **Henna Medicals Vs. State Tax Officer** reported in **(2023) 11 Centax 32 (Ker.)***
> *iii) In **SLP.(C)No.27827-27828 of 2023 (The Assistant Commissioner of State Tax Vs. Suncraft Energy Private Limited and others) dated 14.12.2023**;*
> *iv) In **W.P.No.4122 of 2022 (Sakthi Steel Trading Vs. The Assistant Commissioner (ST)) dated 29.01.2024"***

6.He submits that the petitioner cannot be mulct with tax liability, as the respondent should have taken steps to serve notice physically through Registered Post and mere hosting of the notices in the web portal is not sufficient.

7.I have considered the arguments advanced by the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent.

8.The explanation of the petitioner that the petitioner did not notice the hosting of the notices and the impugned order is acceptable in the light of the reasonings of this Court in W.P.No.4122 of 2022 (***Sakthi Steel Trading, rep. By its Proprietor, M.S.Bakkir Mydeen Vs. The Assistant Commissioner (ST), Vandavasi Assessment Circle, Vandavasi***) dated 29.01.2024.

9.However, considering the fact that the petitioner may be liable to pay tax eventually, to balance the interest of the petitioner and the respondent, the petitioner is directed to pay 10% of the disputed tax through Electronic Cash Ledger 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 dated 22.09.2023 issued to the petitioner. The petitioner shall file a detailed reply within a period of 30 days from the date of receipt of a copy of this order. The respondent shall endeavour to pass a speaking order on merits and in accordance with law after hearing the petitioner within the time stipulated above.

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

Index : Yes / No
Internet : Yes / No
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24.04.2024

To

The Assistant Commissioner (ST),
Madurai Rural East Circle,
CT Complex, Dr.Thangaraj Salai,
K.K.Nagar,
Madurai 626 020.

C.SARAVANAN, J.

mm

W.P.(MD) No.9600 of 2024

24.04.2024