BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.04.2024**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.9799 of 2024
and
W.M.P.(MD) Nos.8887, 8891 of 2024

Siva Vinayaga Stores,
Representation by its Parner G.Vijaya Sekaran,
76, Samu Mudali Street,
Pattukottai,
Thanjavur. ... Petitioner

Vs.

The State Tax Officer
Pattukottai II Assessment Circle,
CT Buildings, Pattukottai,
Thanjavur. ... 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 of the respondent in GSTIN : 33AEDFS8364L1ZK/2021-22 dated 30.08.2023 and the consequential DRC07 in Ref.No.ZD330823170949V dated 30.08.2023 and to quash the same.

For Petitioner : Mr.A.Chandra Sekaran

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

ORDER

The petitioner has challenged the impugned order dated 30.08.2023 by the respondent in his proceeding bearing reference No.GSTIN : 33AEDFS8364L1ZK/2021-22 dated 30.08.2023.

2. By the impugned order, the respondent has confirmed the demand proposed in the notice that preceded to the impugned order.

3. The specific case of the petitioner is that the petitioner was ill and therefore, failed to file Statutory Appeal before the Appellate Commissioner and therefore, at this stage, an appeal before the Appellate Commissioner would be time barred. The learned counsel for the petitioner undertakes to deposit 10% of the disputed tax. The statement of the petitioner stands recorded.

4. Further, the case of the petitioner is that in the Return filed in GSTR 1 for the month of March 2022, by mistake, the petitioner had declared the taxable turnover as Rs.1,40,14,297/- (Rupees One Crore Forty Lakhs Fourteen Thousand Two Hundred and Ninety Seven only) as against the actual taxable turnover of

Rs.48,61,294/- (Rupees Forty Eight Lakhs Sixty One Thousand Two Hundred and Ninety Four only). It is submitted that a part of turnover for the month of February 2022 i.e., a sum of Rs.55,53,003/- (Rupees Fifty Five Lakhs Fifty Three Thousand and Three only) was added and thus, the demand was proposed in the notice, which preceded to the impugned order.

5. The learned counsel for the petitioner would further submit that the petitioner has rectified the mistake in the Return filed in GSTR 3B and also in GSTR 9. The learned counsel for the petitioner would further submit that without considering the same, the respondent has passed the impugned order.

6. The learned counsel for the respondent, on the other hand, would submit that the Writ Petition is also liable to be dismissed, as the petitioner has not amended GSTR1, where the petitioner had committed the alleged mistake by declaring the monthly turnover for the month of March 2022 as Rs.1,40,14,297/- (Rupees One Crore Forty Lakhs Fourteen Thousand Two Hundred and Ninety Seven only).

7. The dispute is on account of reconciliation of the amounts maintained by the petitioner and the returns filed by the petitioner in GSTR 1, GSTR 3B and GSTR 9. The petitioner has failed to substantiate how the difference for a sum of Rs.55,53,003/- came to be added and how the aforesaid turnover actually pertained to the part of the turnover to the month of February 2022. The petitioner has failed to reply by stating that the petitioner has reconciled the amount in the GSTR 9.

8. Be that as it may, the petitioner can be given a fresh opportunity to explain the discrepancies between returns in GSTR 1, GSTR 3B and GSTR 9 together with the Return filed for the month of February 2022 in GSTR 1.

9. The impugned order, which stands quashed, shall be treated as corrigendum to the show cause notice. The petitioner shall file the said reply within a period of 30 days from the date of receipt of a copy of this order, together with a deposit of 10% of disputed tax.

10. On such deposit being made and the reply being filed within 30 days

time, the respondent shall consider and pass an appropriate order on merits in accordance with law, preferably within the period of 45 days thereafter.

11. The Writ Petition stands disposed of, with the above observations. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes / No
apd

23.04.2024

To

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

C.SARAVANAN, J.

apd

W.P.(MD) No.9799 of 2024

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