BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.04.2024**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.9855 of 2024
and
W.M.P.(MD) Nos.8946 & 8947 of 2024

Gomathi Sankar ... Petitioner

Vs.

The Deputy State Tax Officer-2
Shencottai Assessment Circle
Shencottai, Tenkasi. ... 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 GST No.33BLUPG5206Q1ZL/2017-18 dated 13.10.2023 and quash the same and consequently, direct the respondent to give an opportunity of personal hearing.

For Petitioner : Mr.D.Venkatesh

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

ORDER

The petitioner has filed this Writ Petition against the impugned order dated 13.10.2023 passed by the respondent. The impugned order confirms the proposal contained in the notices, that preceded the impugned order. The petitioner failed to respond to the notices that preceded the impugned order. Relevant portion of the impugned order reads as under:

> "*In this regard, the above notices were issued to the tax payer, have not any response in this issue of notice till date. Hence, it is therefore to propose the above proposal are confirmed as per Section 74 of TNGST Act-2017 and attract to interest under Sec. 50 and also appropriate levy of penalty under Section 74(1) for the year 2017-18*"

2. The petitioner has also filed a Statutory Appeal beyond the statutory period of limitation for condoning the delay under Section 107 of the TNGST Act, 2017, before the office of the Appellate Deputy Commissioner on 22.03.2024. The delay cannot be condoned by the Appellate Deputy Commissioner in terms of the decision of the Hon'ble Supreme Court in ***Singh Enterprises Vs. Commissioner of Central Excise, Jamshedpur and others*** reported in ***(2008) 3 SCC 70*** . Since the order has been passed without the

petitioner's reply, one more opportunity can be given to the petitioner to give a reply, subject to the condition the petitioner depositing 10% of the disputed tax within a period of 30 days from the date of receipt of a copy of this order. It is noticed that at the time of filing the Statutory Appeal before the Appellate Deputy Commissioner, the petitioner has also deposited 10% on 22.03.2024.

3.Considering the same, the impugned order is set aside and the matter is remitted back to the respondent to pass fresh orders in accordance with law within a period of 90 days from the date of receipt of a copy of this order.

4. The impugned order, which stands quashed, shall be treated as corrigendum to show cause notice which preceded it. The petitioner shall file reply to the same within a period of 30 days from the date of receipt of a copy of this order. The petitioner shall also file necessary documents and substantiate the case. Subject to the above compliance, the respondent shall proceed to pass appropriate orders within a period of 60 days thereafter.

Accordingly, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes / No
apd

23.04.2024

To

The Deputy State Tax Officer-2
Shencottai Assessment Circle
Shencottai, Tenkasi.

C.SARAVANAN, J.

apd

W.P.(MD) No.9855 of 2024

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