BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.04.2024**

CORAM:

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

W.P.(MD) No.9892 of 2024
and
W.M.P.(MD) No.8969 of 2024

M/S.Vilsons Shipping Private Limited,
rep. by its Director J.Celestine Villavarayar,
No.39, Vilson House, Emperor Street,
Tuticorin 628 001. ... Petitioner

/vs./

The State Tax Officer,
O/o. the Assistant Commissioner (ST),
Tuticorin – II Circle,
Commercial Tax Building,
282, North Beach Road,
Tuticorin 628 001. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records in the impugned Order No.GSTIN 33AAACV6328H1ZF/2017-18 dated 30/12/2023 issued by the Respondent and quash the same is wholly without jurisdiction and clear violation of statutory provisions and direct the respondent to pass order afresh by considering the replies filed by the petitioner after affording the opportunity of personal hearing.

For Petitioner : Mr.S.Karunakar

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

ORDER

Mr.J.K.Jayaselan, learned Government Advocate takes notice for the respondent.

2.With the consent of the learned Government Advocate, this Writ Petition is disposed of at the time of admission after dispensing with the requirement of filing of the counter, in view of the fact that the impugned order has been passed against the petitioner on 30.12.2023 after the petitioner failed to appear for the personal hearing fixed as under:-

S.No	***Personal Hearing Notice Number and Date***	***Appearing Date***
1	*GSTIN: 33AAACV6328H1ZF/17-18, dated 11.12.2023*	*15.12.2023 at 04.30 pm.,*
2	*GSTIN: 33AAACV6328H1ZF/17-18, dated 15.12.2023*	*21.12.2023 at 04.30 pm.,*
3	*GSTIN: 33AAACV6328H1ZF/17-18, dated 26.12.2023*	*29.12.2023 at 04.30 pm.,*

3.The learned counsel for the petitioner would submit that the petitioner was issued with a show cause notice on 26.09.2023, after inspection was conducted by the Audit Department. The petitioner has also replied to the same on 17.10.2023. After that, the petitioner was called for the personal hearing on the above mentioned dates.

4.The fact remains that during the aforesaid period, the entire South Districts of Tamil Nadu was affected by Michaung Cyclone, as a result of which the petitioner was unable to access the records and produce the same before the respondent on the dates fixed for personal hearing. Thus, the impugned order has been passed in terms of Section 75(5) of the TNGST Act, 2017.

5.Although the respondent cannot be found fault with for not granting further time, in view of the statutory limitation prescribed under Section 75(5) of the TNGST Act, 2017, this Court is of the view that this is a fit case for exercising the discretion of this Court in favour of the petitioner by quashing the impugned order and 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. It is needless to state that the petitioner shall file all the documents that are required to defend itself within a period of 30 days from the date of receipt of a copy of this order. The petitioner shall also be heard before final orders are passed.

6.The Writ Petition stands allowed, accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes / No
Internet : Yes / No
mm

23.04.2024

To

The State Tax Officer,
O/o. the Assistant Commissioner (ST),
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C.SARAVANAN, J.

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W.P.(MD) No.9892 of 2024

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