BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **11.07.2024**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.15372 of 2024
and
W.M.P.(MD)Nos.13473 & 13474 of 2024

Tvl.Balaguru Traders,
Represented by its Proprietor B.Guna Seelan. ... Petitioner

Vs.

The Assistant Commissioner (ST),
Virudhunagar -II Assessment Circle,
Virudhunagar. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarifed Mandamus to call for the records on the file of the respondent in case ID No.GSTIN/33AUNPG1106E1Z9/2017-18, dated 26.12.2023, quash the same an further direct the respondent to pass order afresh after affording an opportunity to the petitioner to file their objections with supporting documents.

For petitioner : Mr.S.Raja Jeya Chandra Paul

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

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ORDER

Heard learned counsel for the petitioner and learned Additional Government Pleader for the respondent.

2. The petitioner, is a senior citizen and a dealer, registered under the provisions of the GST Act, 2017, is before this Court challenging the impugned assessment order dated 26.12.2023 for the assessment year 2017-18 bearing reference in Case ID No. GSTIN/33AUNPG1106E1Z9/2017-18.

3. The case of the petitioner is that the petitioner failed to notice the notices that preceded the impugned order and therefore, did not respond the same.

4. It is submitted that for the same reason also, the petitioner did not file appeal before the Appellate Commissioner in time.

5. It is submitted that the petitioner came to know about the impugned order after the recovery proceedings were initiated.

6. The learned counsel for the petitioner submits that the petitioner is aged about 78 years and he is under treatment from 15.03.2024 for frequent loss of conscious, memory with giddiness, breathlessness, CVA, cardiac and bronchial asthma. To substantiate the same, the petitioner has submitted a Medical Certificate dated 30.05.2024.

7. The above submission is opposed by the learned Additional Government Pleader for the respondent, on the ground that the Writ Petition is hopelessly time barred and therefore, liable to be dismissed, on account of latches, in the light of 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.***

8. It is submitted that the appellate remedy is also time barred in terms of limitation under Section 107 of the respective GST Enactments as held by the Hon'ble Supreme Court in the case of ***Singh Enterprises Vs. Commissioner of Central Excise, Jamshedpur and others*** reported in ***(2008) 3 SCC 70*** and

submitted that this Writ Petition is liable to be dismissed.

9. I am of the view that the interest of the petitioner and the revenue can be balanced, subject to the petitioner depositing 10% of the disputed tax from its Electronic Cash Register within a period of 30 days from the date of receipt of a copy of this order.

10. The petitioner shall file a composite reply with the respondent with in a period of 30 days from the date of receipt of a copy of this order together with the said deposit.

11. The impugned order, which stands quashed, shall be treated as addendum to the show cause notice that preceded the impugned order.

12. The respondent shall pass a fresh order on merits and in accordance with law as expeditiously as possible preferably within a period of two months thereafter. Needless to state, the petitioner shall be heard either in person or through his representative.

This Writ Petition is disposed of with above directions. No costs. Consequently, connected miscellaneous petitions are closed.

11.07.2024

Index : Yes / No
Internet : Yes / No
apd

To
The Assistant Commissioner (ST),
Virudhunagar -II Assessment Circle,
Virudhunagar.

C.SARAVANAN, J.

apd

W.P.(MD) No.15372 of 2024

11.07.2024