BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **05.06.2024**

CORAM:

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

W.P.(MD) No.11740 of 2024
and
W.M.P.(MD) Nos.10481 and 10482 of 2024

M/S.Pushpam Marketing,
rep. by its Proprietor,
G.Lalith Kumar
No.26/1202,
Kumbeswaran East Street,
Tanjavur District. ... Petitioner

/vs./

The State Tax Officer,
Kumbakonam Town Assessment Circle,
Thanjavur District. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for records pertaining to the impugned order passed by the Respondent vide his order in GSTIN 33AGEPL6796Q1ZJ/2017-2018 dated 30-04-2024, quash the same as it is illegal and in gross violation of Principles of Natural Justice and further direct the respondent to consider the valid objections filed by the petitioner in all perspective on its merits and thereby pass an appropriate order in accordance with law after providing an opportunity of Personal Hearing.

For Petitioner : Mr.A.Satheesh Murugan

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

ORDER

This Writ Petition is disposed of at the time of admission after hearing the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondent.

2.By the impugned order, the respondent has confirmed the demand proposed in GST DRC-01A dated 24.09.2023 bearing Ref.No.ZD330923164699S and GST DRC-01 dated 29.09.2023 bearing Ref.No.ZD330923246551F.

3.The petitioner's case is that the petitioner has explained the purported discrepancy in the returns filed in GSTR 3B and GSTR 1. However, without considering the same, the respondent has passed the impugned order.

4.The Writ Petition is opposed by the learned Additional Government Pleader on the ground that the petitioner has an alternate remedy and therefore, the petitioner should be asked to work out the alternate remedy before the Appellate Commissioner under Section 107 of the TNGST Act, 2017.

5.Having considered the submissions made by the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent and having perused the impugned order, it is noticed that the impugned order merely records the notice in GST DRC-01 dated 29.09.2023 bearing Ref.No.ZD330923246551F and part of the reply of the petitioner. Operative portion of the order thereafter merely records that the objection of the petitioner was examined in detail and has confirmed the demand.

6.Clearly the impugned order is non speaking nature and is therefore liable to be set aside and is accordingly set aside. The case is remitted back to the respondent to pass a fresh order on merits and in accordance with law within a period of 3 months from the date of receipt of a copy of this order. It is made clear that the order to be passed in the remand proceeding shall be detail with proper reasonings.

7.The Writ Petition stands allowed, accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No
Internet : Yes / No
mm

05.06.2024

To

The State Tax Officer,
Kumbakonam Town Assessment Circle,
Thanjavur District.

C.SARAVANAN, J.

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W.P.(MD) No.11740 of 2024

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