BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **07.06.2024**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.11955 of 2024
and
W.M.P.(MD) Nos.10643 to 10645 of 2024

Murugan ... Petitioner

Vs.

1.The Deputy Commissioner (GST Appeals) (ST),
Commercial Taxes Building,
AR Line Road, Palayamkottai,
Tirunelveli.

2.State Tax Officer,
Ground Floor, Commercial Tax Building,
No.141, Main Road – Perumpattu,
Kalakkaddu Road, Nanguneri – 627 108. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, call for the records relating to the order of the second respondent dated 08.06.2023 made in GSTIN. 33AELPM7904E1ZK/2019-20 and quash the same as the same is passed by grossly violating the Principles of Natural Justice and also passed by violating the statutory provisions and further direct the 2nd respondent to re-do the assessment afresh after providing him an opportunity of personal hearing.

For petitioner : Mr.C.Aravinthan

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

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ORDER

This Writ Petition has been filed challenging the impugned order dated 08.06.2023. The petitioner has failed to file appeal within stipulated appeal under Section 107 of TNGST Act, 2017. Hence, the petitioner is unable to file statutory appeal and therefore, he is before this Court under Article 226 of the Constitution of India.

2. The learned counsel for the petitioner would submit that in case the petitioner is given an opportunity to file appeal, the petitioner will canvas the rights before the Appellate Commissioner under Section 107 of the TNGST Act, 2017.

3. On the other hand, the learned Government Advocate for the respondents would submit that neither this Writ Petition is maintainable nor the appeal is maintainable.

4. In this connection, the learned Government Advocate for the respondents has placed reliance on 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.*** It is therefore submitted that this Writ Petition is liable to be disposed of and no liberty should be given to the petitioner.

5. Considering the above facts, the petitioner may have the case on merits, the Court is inclined to dispose of this Writ Petition by directing the petitioner to approach the first respondent with an appeal within 30 days from the date of receipt of a copy of this order along with pre-deposit of 25% of the disputed tax.

6. In case along with aforesaid appeal and the said deposit, the petitioner approaches the first respondent, the appeal shall be entertained and disposed of on merits and in accordance with law without any reference to the limitation. The respondents are directed to ensure that online facilities are made available to the petitioner to file the appeal. In any event, the petitioner shall file a manual copy of the appeal within a period of 30 days from the date of receipt of a

copy of this order and shall upload the appeal in portal when it is made available.

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

Index : Yes / No
Internet : Yes / No
apd

07.06.2024

To

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C.SARAVANAN, J.

apd

W.P.(MD) No.11955 of 2024

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