BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **18.06.2024**

CORAM:

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

W.P.(MD) Nos.12809 and 12810 of 2024
and
W.M.P.(MD) Nos.11382 and 11410 of 2024

TVL.Ganga Traders,
rep. by Proprietor R.Gengaraj,
No.101A, Polepettai,
Thoothukudi 628 002.

... Petitioner in both W.Ps.,

/vs./

1.The State Tax Officer,
Tuticorin-1 Circle,
Thoothukudi District.

2.The Appellate Deputy Commissioner (GST),
4th Floor, Commercial Taxes Buildings,
Dr.S.V.K.S.Thangaraj Salai,
Madurai 625 020.

... Respondents in W.P.(MD) No.12809 of 2024

The State Tax Officer,
Tuticorin-1 Circle,
Thoothukudi District.

... Respondent in W.P.(MD) No.12809 of 2024

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the impugned assessment order on the file of respondent vide GSTIN 33ARTPG4896J1Z3/2017-18 and 33ARTPG4896J1Z3/2019-20 dated 29.12.2023 and 04.07.2023 respectively and quash the same as illegal and devoid of merits and direct the respondent to redo the assessment proceedings for the years 2017-18 and 2019-20 respectively.

For Petitioner
in both W.Ps., : Mr.Raja.Karthikeyan

For Respondent
in both W.Ps., : Mr.R.Suresh Kumar
Additional Government Pleader

COMMON ORDER

By this common order, both the writ petitions are being disposed of.

2.As far as W.P.(MD) No.12809 of 2024 is concerned, the petitioner has challenged the impugned assessment order dated 29.12.2023 for the assessment year 2017-18, whereby the demand proposed in the notice that preceded the impugned order has been confirmed. The petitioner has however failed to file statutory appeal in time as per Section 107 of the TNGST Act, 2017.

3.The learned counsel for the petitioner would submit that the petitioner was unaware of the impugned order that came to be passed on 29.12.2023 and that the petitioner came to know about the same only after the recovery notice was issued by attaching the petitioner's bank account maintained in Tamil Nadu Mercantile Bank, vide letter dated 26.04.2024.

4.As far as this W.P.(MD) No.12809 of 2024 is concerned, the challenge to the impugned order on the ground stated in the affidavit is not made out. However, I am inclined to give liberty to the petitioner to file a statutory appeal although the limitation for filing the appeal has expired, as the petitioner may have a case on merits.

5.Considering the same, the Appellate Deputy Commissioner (GST), 4^{th} Floor, Commercial Taxes Buildings, Dr.S.V.K.S.Thangaraj Salai, Madurai 625 020 is *suo motu* impleaded by this Court as second respondent in W.P.(MD) No. 12809 of 2024. The petitioner is directed to file a statutory appeal within a period of 30 days from the date of receipt of a copy of this order before the second respondent. The second respondent shall entertain the appeal, if any, to be filed against the order dated 29.12.2023 passed for the assessment year 2017-18 without reference to the limitation subject to the petitioner's compliance with the other requirements of Section 107 of TNGST Act, 2017.

6.As far as W.P.(MD) No.12810 of 2024 is concerned, it is noticed that the petitioner has neither replied to the show cause notice nor attended the personal hearing for the assessment year 2019-20.

7.Considering the same and recording the submissions of the learned counsel for the petitioner in W.P.(MD) No.12810 of 2024 that the petitioner will deposit 10% of the disputed tax, the impugned order in W.P.(MD) No.12810 of 2024 stands quashed and the case is remitted back to the respondent to pass a fresh order on merits and in accordance with law.

8.In the result,

i) W.P.(MD) No.12809 of 2024 stands disposed of by giving liberty to the petitioner to file a statutory appeal within a period of 30 days from the date of receipt of a copy of this order before the second respondent and the second respondent shall entertain the appeal, if any, to be filed against the order dated 29.12.2023 passed for the assessment year 2017-18 without reference to the limitation subject to the petitioner's compliance with the other requirements of Section 107 of TNGST Act, 2017 and

ii) W.P.(MD) No.12809 of 2024 stands allowed. The impugned order passed by the respondent dated 04.07.2023 bearing GSTIN>33ARTPG4896J1Z3 for the assessment year 2019-20 stands quashed. The petitioner shall file a reply to the show cause notice by treating the impugned order, which stands quashed by this Court, as addendum, in DRC 01A 01 dated 24.08.2022 within a period of 30 days from the date of receipt of a copy of this order.

Subject to the above compliance, the respondent is directed to pass a speaking order on merits and in accordance with law within a period of 3 months thereafter. It is needless to state that the petitioner shall also be heard before a fresh order is passed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No **18.06.2024**
Internet : Yes / No
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Note: Registry is directed to carry out necessary amendment

To

The State Tax Officer,
Tuticorin-1 Circle,
Thoothukudi District.

<u>C.SARAVANAN, J.</u>

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W.P.(MD) Nos.12809 and 12810 of 2024

18.06.2024