BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **02.07.2024**

CORAM:

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

W.P.(MD) Nos.14251 and 14252 of 2024
and
W.M.P.(MD) Nos.12486 and 12490 of 2024

Tvl.Kamana Thevar Kamanan,
Rep. by Proprietor K.Kamanan
... Petitioner in both W.Ps.,

/vs./

1.The Deputy State Tax Officer -2,
O/o. State Tax Officer,
Dindigul Fort Assessment Circle,
Commercial Taxes Building,
Sub Collector Office Road,
Dindigul.

2.The Deputy Commissioner (Appeals),
Madurai and Tirunelveli,
Commercial Tax Building,
Dr.Thangaraja Salai,
Madurai.
(R2 has been suo motu impleaded vide order dated 02.07.2024)
... Respondents in both W.Ps.,

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 33AETPK8727M1ZQ/2018-19 and 33AETPK8727M1ZQ/2019-20 dated 25.07.2023 and quash the same as illegal and devoid of merits and direct the respondent to redo the assessment proceedings for the year 2018-19 and 2019-20.

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

For Respondents
in both W.Ps., : Mr.J.K.Jayaselan
Government Advocate

COMMON ORDER

By this common order, both the writ petitions are being disposed of by giving liberty to the petitioner to challenge the respective assessment orders passed by the respondent on 25.07.2023 for the assessment year 2018-19 and 2019-20.

2.Although the learned Government Advocate for the respondent would submit that the writ petition is devoid of merits and is liable to be dismissed in view of the decision of the Hon'ble Supreme Court in ***Assistant Commissioner***

(CT) LTU, Kakinada and others Vs. Glaxo Smith Kline Consumer Health Care Limited reported in ***2020 SCC Online SC 440*** and the appellate remedy is also time barred in terms of the decision of the Hon'ble Supreme Court in ***Singh Enterprises Vs. Commissioner of C.Ex., Jamshedpur*** reported in ***2008 (221) E.L.T. 163 (S.C),*** to balance the interest of the petitioner and the Revenue, this Court is inclined to intervene by granting liberty to the petitioner to file a statutory appeal before the Deputy Commissioner (Appeals), Madurai and Tirunelveli against the respective assessment orders dated 25.07.2023 within a period of 30 days from the date of receipt of a copy of this order.

3.Since there is direction to file appeals, the Deputy Commissioner (Appeals), Madurai and Tirunelveli, Commercial Tax Building, Dr.Thangaraja Salai, Madurai, is *suo motu* impleaded as second respondent.

4.As far as the assessment year 2018-19 is concerned, the petitioner shall deposit 25% of the disputed tax from its Electronic Cash Register. As far as the assessment year 2019-20 is concerned, since the dispute is only pertains to the penalty, there shall be a complete waiver of pre-deposit of penalty.

5.The second respondent shall dispose of the appeal on merits and in accordance with law, if such appeals are filed by the petitioner within such time, as expeditiously as possible, preferably within a period of 3 months from the date of filing of appeal. It is needless to state that the petitioner shall be heard before final orders are passed.

6.The Writ Petitions stand disposed of, accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No **02.07.2024**
Internet : Yes / No
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To

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Commercial Taxes Building,
Sub Collector Office Road,
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2.The Deputy Commissioner (Appeals),
Madurai and Tirunelveli,
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Dr.Thangaraja Salai,
Madurai.

C.SARAVANAN, J.

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W.P.(MD) Nos.14251 and 14252 of 2024

02.07.2024