BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **13.06.2024**

CORAM:

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

W.P.(MD) No.12441 of 2024
and
W.M.P.(MD) No.11024 of 2024

Natarajan Patchirajan ... Petitioner

/vs./

The State Tax Officer,
Theni 2 Assessment Circle,
Commercial Taxes Buildings,
Trichy 620 001. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records on the file of the respondent in GSTIN.33AGFPP6568F1Z7/2018-19 dated 6.6.2023 for the assessment year 2018-19 and to quash the both as cryptic, illegal, arbitrary, wholly without jurisdiction.

For Petitioner : Mr.S.Karunakar

For Respondent : Mr.J.K.Jayaseelan
Government Advocate

ORDER

Heard Mr.S.Karunakar, learned counsel for the petitioner and Mr.J.K.Jayaseelan, learned Government Advocate for the respondent.

2.The petitioner neither participated in the show cause proceeding nor filed any statutory appeal in time and has now filed this writ petition challenging the impugned order dated 06.06.2023.

3.There is no proper explanation also forthcoming from the petitioner as to why the statutory appeal was not filed in time except stating that the petitioner had handed over the papers to the Sale Tax Practitioner/GST Practitioner to file an appeal, but was not filed.

4.That apart, the learned counsel for the petitioner would submit that the amount taxable under the TNVAT Act, 2006 has been included for the purpose of determining the tax liability of the petitioner under the GST Act with effect from 01.07.2017.

5.It is submitted that the VAT turn over cannot be included into the GST turn over merely by making a comparison with the returns filed by the Department, namely Andipatti Panchayat in Form GSTR 7B.

6.Having considered the submissions made by the learned counsel for the petitioner and the learned Government Advocate for the respondent, this Court is inclined to exercise its discretion in favour of the petitioner by quashing the impugned order and by remitting the case back to the respondent to pass a fresh order on merits and in accordance with law subject to the petitioner depositing 10% of the disputed tax within a period of 30 days from the date of receipt of a copy of this order.

7.The impugned order, which stands quashed, shall be treated as addendum to the notice issued in Form GST DRC 01 dated 24.08.2022. It is expected that the respondent shall pass a fresh order on merits and in accordance with law within a period of 3 months thereafter.

8.The Writ Petition stands allowed, accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

13.06.2024

Index : Yes / No
Internet : Yes / No
mm

To

The State Tax Officer,
Theni 2 Assessment Circle,
Commercial Taxes Buildings,
Trichy 620 001.

C.SARAVANAN, J.

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W.P.(MD) No.12441 of 2024

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