BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **18.06.2024**

CORAM:

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

W.P.(MD) No.12856 of 2024
and
W.M.P.(MD) No.11417 of 2024

Tvl.Kalyan Enterprises,
rep. by Proprietor
Jeyachandran ... Petitioner

/vs./

The Deputy State Tax Officer-1,
West Veli Street Circle,
Madurai. ... Respondent

PRAYER: Writ Petition 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. 33AJBPJ5872F2ZC/2018-19 dated 10.07.2023 and quash the same as illegal and devoid of merits and direct the respondent to redo the assessment proceedings for the year 2018-19.

For Petitioner : Mr.Raja.Karthikeyan
For Respondent : Mr.J.K.Jayaselan
Government Advocate

ORDER

Heard Mr.Raja.Karthikeyan, learned counsel for the petitioner and Mr.J.K.Jayaselan, learned Government Advocate for the respondent.

2.With the consent of the learned Government Advocate for the respondent, the Writ Petition is disposed of at the time of admission after dispensing with the requirement of counter.

3.The petitioner is before this Court against the impugned order dated 10.07.2023 passed by the respondent for the assessment year 2018-19.

4.The impugned order precedes the investigation by the Department on 02.08.2022. On 30.01.2022, the petitioner paid the disputed tax of Rs.2,46,875/- towards CGST and TNGST. Thereafter, the petitioner also paid interest of Rs. 1,60,584/- towards CGST and TNGST leaving the balance of Rs.243/-. After the pre-tax liability was discharged by the petitioner on 30.11.2022 before the petitioner opted to pay the interest on 28.02.2023 as mentioned above, the petitioner was issued with a notice in DRC 01A on 03.02.2023 followed by another notice in DRC 01 on 03.04.2023.

5.The learned counsel for the petitioner submits that although the respondent was justified in invoking Section 74 of the respective GST Act, the respondent is not entitled to impose 100% penalty on the petitioner equivalent to the tax due both towards CGST and TNGST.

6.I have considered the arguments advanced by the learned counsel for the petitioner and the learned Government Advocate for the respondent.

7.*Prima facie* there appears to be an error in imposing penalty equivalent to the tax belatedly paid by the petitioner on 30.11.2022 and interest on 28.02.2023. This aspect ought to have been considered by the respondent.

8.Therefore, the Writ Petition stands allowed by setting aside the impugned order and by remitting the case back to the respondent to pass a fresh order on merits and in accordance with law, as expeditiously as possible, preferably within a period of 3 months from the date of receipt of a copy of this order without getting influenced by any observation contained herein touching on the merits of the case.

9.The impugned order, which stands quashed, shall be treated as addendum to the notice issued in DRC 01A dated 10.04.2023. It is expected that the petitioner will file a suitable reply to the same within a period of 30 days from the date of receipt of a copy of this order. It is needless to state that the petitioner shall also be heard, before fresh order is passed. No costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes / No
Internet : Yes / No
mm

18.06.2024

To

The Deputy State Tax Officer-1,
West Veli Street Circle,
Madurai.

C.SARAVANAN, J.

mm

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