BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **26.04.2024**

CORAM:

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

W.P.(MD) No.13666 of 2024
and
W.M.P.(MD) No.12041 of 2024

R.Janaki ... Petitioner

/vs./

1.The Commissioner of CGST & Central Excise,
Office of Commissioner of CGST & Central Excise,
Madurai Review Section,
No.5, VP.Rathinasamy Nadar Road,
Bibikulam, Madurai 625 002.

2.The Deputy Commissioner,
Office of the Assistant Commissioner of CGST & Central Excise,
Madurai II Division,
No.5, VP.Rathinasamy Nadar Road,
Bibikulam, Madurai 625 002.

3.The Assistant Commissioner,
Office of the Assistant Commissioner of CGST & Central Excise,
Madurai II Division,
No.5, VP.Rathinasamy Nadar Road,
Bibikulam, Madurai 625 002. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records pursuant to the impugned order passed by the 2nd respondent in DIN 20220259X00000444F79 dated 07.02.2022 and quash the same.

For Petitioner : Mr.Lakshmi Gopinathan for
M/S.Polax Legal Solutions

For Respondents : Mr.Nanda Kumar
Senior Standing Counsel

ORDER

This writ petition is disposed of at the time of admission after hearing the learned counsel for the petitioner and the learned Senior Standing Counsel for the respondents.

2.The petitioner is aggrieved by the impugned Order in Original No.MAD-ST-ASC-73-2022 dated 07.02.2022.

3.By the impugned order, the demand proposed in the show cause notice No.130/2020 ST dated 31.12.2020 has been confirmed. The aforesaid show cause notice was issued to the petitioner by invoking the extended period of limitation, whereby the petitioner was called upon to pay Rs.18,23,083/- being service tax and the relevant Cess, which was not paid by the petitioner for the period from October, 2014 to 30.06.2018.

4.The learned counsel for the petitioner submits that the petitioner has a fair case on merits.

5.The learned Senior Standing Counsel for the respondents would submit that conditional orders may be passed.

6.The learned counsel for the petitioner would submit that the petitioner is willing to deposit 25% of the disputed tax as condition.

7.Having considered the submissions made by the learned counsel for the petitioner and the learned Senior Standing Counsel for the respondents, this Court is inclined to grant partial relief to the petitioner by directing the petitioner to deposit 25% of the disputed tax in cash within a period of 30 days from the date of receipt of a copy of this order.

8.Subject to above compliance, the impugned order shall stand quashed and the case is remitted back to the second respondent to pass a fresh order on merits and in accordance with law. The impugned order, which stands quashed, shall be treated as addendum to the show cause notice No.130/2020 ST dated 31.12.2020. The petitioner shall file a reply to the aforesaid show cause notice within a period of 30 days from the date of receipt of a copy of this order and the second respondent shall thereafter pass a final order on merits and in accordance with law as expeditiously as possible, preferably within a period of 3 months. The petitioner is directed to co-operate with the second respondent, failing which the second respondent is at liberty to pass orders based on the available materials.

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

Index : Yes / No
Internet : Yes / No
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26.04.2024

C.SARAVANAN, J.

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W.P.(MD) No.13666 of 2024

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