BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **24.06.2024**

CORAM:

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

W.P.(MD) No.13458 of 2024
and
W.M.P.(MD) Nos.11867 and 11868 of 2024

Sudha Travelss,
rep. by Proprietor S.Balamurugan ... Petitioner

/vs./

The State Tax Officer/Proper Officer,
Office of the Assistant Commissioner (ST),
Tamil Sangam Salai Circle,
C.T.Complex, Thangaraja Salai,
K.K.Nagar,
Madurai 625 020. ... 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-33AJIPB9707A1ZQ/2017-18 dated 29.12.2023 and quash the same as illegal and devoid of merits and direct the respondent to redo the assessment proceedings for the year 2017-18.

For Petitioner : Mr.Raja.Karthikeyan

For Respondent : Mr.R.Suresh Kumar
Additional Government Pleader

ORDER

Heard Mr.Raja.Karthikeyan, learned counsel for the petitioner and Mr.R.Suresh Kumar, learned Additional Government Pleader for the respondent.

2.The petitioner has challenged the impugned order dated 29.12.2023 passed by the respondent herein for the assessment year 2017-18 confirming the demand of Rs.1,19,660/- as detailed below:

Particulars	*IGST*	*CGST*	*SGST*	*Interest*			*Penalty*		
GSTR 1	*2,14,254.35*	*30,569.08*	*30,569.08*						
GSRT 3B	*1,27,080.00*	*14,325.80*	*14,325.80*						
Difference / Short Payment of tax	*87,174.35*	*16,243.28*	*16,243.28*	*89462.38*	*16669.61*	*16669.61*	*10000*	*10000*	*10000*

3.The learned counsel for the petitioner would submit that the petitioner has not participated in the proceedings, as the petitioner was unaware of the notices that preceded the impugned notice. It is further submitted that the petitioner came to know about the same only when the respondent proceeded to recover the aforesaid amount.

4.The learned counsel for the petitioner would submit that the petitioner be given an opportunity to represent the case, as the petitioner has the case on merits.

5.The learned Additional Government Pleader appearing for the respondent on the other hand would submit that the writ petition is liable to be dismissed on account of latches. He would rely on 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 would submit that the appeal will also be 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).***

6.It is therefore submitted that the issue had attained finality and no further indulgence should be shown to the petitioner, as the petitioner neither replied to the show cause notice nor participated in the personal hearing notice, nor filed an appeal in time before the Appellate Commissioner nor approached this Court at an earlier point of time.

7.Having considered the submissions made by the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent, this Court is inclined to grant partial relief to the petitioner by quashing the impugned order subject to the petitioner depositing 25% of the disputed tax through Electronic Cash Register within a period of 30 days from the date of receipt of a copy of this order and the case is remitted back to the respondent to pass a fresh order on merits and in accordance with law within a period of 3 months thereafter.

8.The petitioner shall file a reply to the show cause notice dated 30.09.2023 issued to the petitioner earlier. The impugned order, which stands quashed, shall be treated as addendum to the show cause notice dated 30.09.2023. It is made clear that the petitioner shall co-operate with the respondent, failing which the respondent is at liberty to proceed against the petitioner in accordance with law.

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

Index : Yes / No
Internet : Yes / No
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24.06.2024

To

The State Tax Officer/Proper Officer,
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Tamil Sangam Salai Circle,
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C.SARAVANAN, J.

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