



W.P.(MD) No.14059 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.14059 of 2024
and
W.M.P.(MD)No.12317 of 2024

Tvl.SST & Co/Sethu Susila,
Represented by its Proprietor Susila.

... Petitioner

Vs.

The Deputy State Tax Officer-1 (FAC),
Palayamkottai Assessment Circle,
Tirunelveli.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of of Certiorarified Mandamus to call for the impugned assessment order on the file of the respondent vide GSTIN: 33BJKPS5414C1ZE/2017-18 dated 28.12.2023 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.J.K.Jayaselan
Government Advocate



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ORDER

This Writ Petition is disposed of at the time of admission after hearing the learned counsel for the petitioner and learned Government Advocate for the respondent.

2. The petitioner is aggrieved by the impugned order dated 28.12.2023 issued by the respondent bearing reference in GST No.33BJKPS5414C1ZE the assessment year 2017-18.

3. By the impugned order, the respondent has confirmed the following demand:

Particulars	CGST	SGST
Tax Due (In rupees)	Rs.2,88,787/-	Rs.2,88,787/-
Penalty u/s.73 (In rupees)	Rs. 28,879/-	Rs. 28,879/-
Interest u/s.50(1) (In rupees)	Rs.2,96,367/-	Rs.2,96,367/-
Total	Rs.6,14,033/-	Rs.6,13,178/-

4. It is the case of the petitioner that the petitioner is a small time operator and therefore, failed to notice that the show cause notices in ASMT 10 dated



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31.07.2023 and Show Cause Notice dated 20.09.2023, which were posted in the GST common portal.

5. It is the case of the petitioner that the petitioner has also failed to notice the three personal hearing notices dated 31.10.2023, 11.12.2023 and 18.12.2023 and submits the petitioner may be given one opportunity to explain the case.

6. The above submission is opposed by the learned Government Advocate for the respondent, on the ground that the Writ Petition is hopelessly time barred and therefore, liable to be dismissed, on account of laches, in the light of the decision of the Hon'ble Supreme Court in the case of *Assistant Commissioner (CT) LTU, Kakinada and others vs. Glaxo Smith Kline Consumer Health Care Limited* reported in *2020 SCC Online SC 440*.

7. It is submitted that the appellate remedy is also time barred in terms of limitation under Section 107 of the TNGST Act, 2017, as held by the Hon'ble Supreme Court in the case of *Singh Enterprises Vs. Commissioner of Central Excise, Jamshedpur and others* reported in *(2008) 3 SCC 70* and submitted that



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8. Having considered the learned counsel for the petitioner and the learned Government Advocate for the respondent, this Court is of the view that the petitioner may be given partial relief by quashing the impugned order and remitting the case back to the respondent to pass fresh orders subject to the petitioner depositing Rs.1,00,000/- (Rupees One Lakh only) of disputed tax to the credit of the respondent from its Electronic Cash Register.

9. The impugned order, which stands quashed, shall be treated as addendum to the show cause notice that preceded the impugned order.

10. It is expected that the petitioner shall file a reply within a period of 30 days from the date of receipt of a copy of this order together with above deposit. The respondent shall, thereafter, pass fresh orders on merits and in accordance with law as expeditiously as possible preferably within a period of three months, subject to the above deposit. Needless to state, the petitioner shall be heard before passing the order.



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This Writ Petition is allowed, with above directions. No costs.

Consequently, connected miscellaneous petition is closed.

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Internet : Yes / No

apd

To

The Deputy State Tax Officer-1 (FAC),
Palayamkottai Assessment Circle,
Tirunelveli.



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C.SARAVANAN, J.

apd

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