BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **28.06.2024**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.14046 of 2024
and
W.M.P.(MD)No.12313 of 2024

Tvl.Maruthi Agency,
Represented by its Partner B.Sumathi. ... Petitioner

Vs.

The Assistant Commissioner (ST),
Palayamkottai Assessment Circle,
Commercial Taxes Building,
AR Line Camp Road,
Palayamkottai – 627 002. ... 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: 33AAMFM0061A1ZZ/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.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. In this Writ Petition, the petitioner has challenged the impugned order dated 29.12.2023 passed by the respondent bearing reference in GSTIN: 33AAMFM0060A1ZZ for the assessment year 2017-18. The petitioner was issued with notice in ASMT 10 dated 02.08.2023 followed by the notice in DRC 01 dated 09.09.2023. The petitioner has not replied to the notices.

3. Further, the petitioner was issued with three personal hearing notices dated 09.10.2023, 15.11.2023 and 15.12.2023 calling upon the petitioner for appearing for personal hearings. However, the petitioner has failed to appear.

4. The learned counsel for the petitioner submits that the petitioner is a small time operator and was unaware of posting of these notices in the GST common web portal and hence, the petitioner may be given one opportunity to

explain the case as the petitioner has a fair case.

5. 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 latches, 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.***

6. 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 this Writ Petition is liable to be dismissed.

7. 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) from its Electronic Cash Register. Needless to state, the aforesaid amount shall be deposited without prejudice to the rights of the petitioner in De-Novo proceedings.

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

9. 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.

This Writ Petition is allowed, with above directions. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
Internet : Yes / No
apd

28.06.2024

To

The Assistant Commissioner (ST),
Palayamkottai Assessment Circle,
Commercial Taxes Building,
AR Line Camp Road,
Palayamkottai – 627 002.

C.SARAVANAN, J.

apd

W.P.(MD) No.14046 of 2024

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