BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **28.06.2024**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.14114 of 2024
and
W.M.P.(MD)Nos.12389 & 12390 of 2024

Santhinarayanan Santhoshkumar ... Petitioner

Vs.

The Deputy State Tax Officer-1,
Srirangam Assessment Circle, Srirangam,
JJ Nagar Central -II,
Trichy. ... 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 records on the file of the respondent in Order-in-reference No.ZD330823089251E passed under Section 73 of the TNGST Act, 2017 for the period 2019-20 dated 16.08.2023 and quash the same as illegal and not in accordance with law and consequently direct the respondent to conduct fresh assessment proceedings after providing a reasonable opportunity of hearing to the petitioner in accordance with law.

For petitioner : Mr.Raghav Menan for
Mr.R.Sivaraman
For respondent : Mr.J.K.Jayaselan
Government Advocate

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ORDER

Heard learned counsel for the petitioner and learned Government Advocate for the respondent.

2. The petitioner is before this Court long after the impugned order was passed in GST DRC 07 dated 16.08.2023 bearing reference No.ZD330823089251E.

3. It is noticed that the amount that has been confirmed against the petitioner towards tax liability, on account of the difference between GSTR 01 and GSTR 3B and also between GSTR 2A and GSTR 3B as follows:

	Description	SGST (in Rs.)	CGST (in Rs.)
Difference in GSTR 1 vs GSTR 3B	Tax Balance	12,581	12,581
	Penalty Balance	10,000	10,000
	Interest Balance	9,611	9,611
Difference in GSTR 2A vs GSTR 3B	Tax Balance	2,93,808	2,93,808
	Penalty Balance	29,381	29,381
	Interest Balance	2,24,437	2,24,437
Total	Total Tax Balance	3,06,389	3,06,389
	Total Penalty Balance	39,381	39,381
	Total Interest Balance	2,34,048	2,34,048

4. It is case of the petitioner that the petitioner was a small time assessee and running a small grocery shop. The petitioner has failed to file reply to the notices issued prior to the impugned order as they were posted in the GST common portal and therefore, the petitioner may be given one opportunity to explain the 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 respective GST Enactments 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 arguments advanced by the learned counsel for the petitioner and the learned Government Advocate for the respondent, this Court is of the view that the petitioner may have a case on merits and therefore, this Court is inclined to grant partial relief to the petitioner by quashing the impugned order and remitting the case back to the respondent to pass fresh orders, subject to the petitioner depositing Rs.1,50,000/- (Rupees One Lakh and Fifty Thousand only) to the credit of the respondent from his Electronic Cash Register.

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 to the notice that preceded the impugned order within a period of 30 days from the date of receipt of a copy of this order together with the 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. 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 petitions are closed.

28.06.2024

Index : Yes / No
Internet : Yes / No
apd

To

The Deputy State Tax Officer-1,
Srirangam Assessment Circle, Srirangam,
JJ Nagar Central -II,
Trichy.

C.SARAVANAN, J.

apd

W.P.(MD) No.14114 of 2024

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