BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.07.2024**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.14357 of 2024
and
W.M.P(MD)No.12586 of 2024

Tvl.Sri.S.Subbiah & Company,
Rep. by Managing Partner S.Anand,
No.235, Old Post Office Road,
Lakshmipuram,
Dindigul - 624 601. ... Petitioner

Vs.

1.The Assistant Commissioner(ST),
Palani -1 Assessment Circle,
Palani, Dindigul District.

2. The Appellate Deputy Commissioner (ST)(GST Appeals)
Madurai. ... Respondents

(R2 is impleaded as *suo motu* vide order dated 03.07.2024
in W.P.(MD)No.14357 of 2024)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the impugned assessment order on the file of respondent vide GSTIN - 33AAVFS5221L1ZS/2018-19 dated 31.05.2023 and quash the same as illegal and devoid of merits and direct the respondent to redo the assessment proceedings for the year 2018-19.

For Petitioner : Mr.Raja.Karthikeyan

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

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ORDER

Heard learned counsel for the petitioner and learned Additional Government Pleader for the respondents.

2. This Writ Petition has been filed to quash the impugned assessment order dated 31.05.2023 passed by the respondent for the assessment year 2018-19 bearing reference in GSTIN – 33AAVFS5221L1ZS/2018-19.

3. The learned counsel for the petitioner submits that although the petitioner has replied to the show cause notice that preceded the impugned order and participated in the personal hearings, the petitioner failed to note that the impugned order has been passed on 31.05.2023 and that the petitioner came to know about the same only after the Department initiated recovery proceedings.

4. The learned counsel for the petitioner further submits that the petitioner may be given an opportunity to work out the remedy before the Appellate Deputy Commissioner (ST) (GST Appeal), Madurai, as the dispute is on account of the difference between GSTR-07 and GSTR-01, GSTR-3B and GSTR-2A, GSTR-01 and GSTR-3B and GSTR-07 and GSTR-3B.

5. Opposing the above submissions, the learned Additional Government Pleader for the respondents has placed reliance on the decision of the Hon'ble Supreme Court in ***Singh Enterprises Vs. Commissioner of Central Excise, Jamshedpur and others*** reported in ***(2008) 3 SCC 70.*** It is therefore submitted that this Writ Petition is liable to be disposed of and no liberty should be given to the petitioner.

6. Having considered the submissions made by the petitioner and Additional Government Pleader for the respondent, this Court is inclined to give partial relief to the petitioner by giving liberty to the petitioner to file statutory appeal before the Appellate Authority *viz.*, Appellate Deputy Commissioner (ST) (GST Appeal), Madurai. Consequently, the Appellate Deputy Commissioner (ST)

(GST Appeal), Madurai is *suo motu* impleaded as the second respondent.

7. The petitioner shall file statutory appeal before the second respondent along with 25% of the disputed tax, as pre-deposit in cash through Electronic Cash Register within a period of 30 days from the date of receipt of a copy of this order. Subject to such compliance, the second respondent shall entertain the appeal and dispose the same on merits and in accordance with law within a period of two months thereafter, without reference to the limitation in filing appeal.

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

Index : Yes / No
Internet : Yes / No
apd

03.07.2024

To

1.The Assistant Commissioner(ST),
Palani -1 Assessment Circle,
Palani, Dindigul District.

2. The Appellate Deputy Commissioner (ST)(GST Appeals)
Madurai.

C.SARAVANAN, J.

apd

W.P.(MD) No.14357 of 2024
and
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03.07.2024