BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **05.07.2024**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.14906 of 2024
and
W.M.P.(MD)No.13074 & 13076 of 2024

Tvl.Pearlport Industries India Private Limited,
Represented by its Managing Director Immanuvel Raviraj. ... Petitioner

Vs.

The Assistant Commissioner (ST)-2,
Tuticorin-2 Assessment Circle,
Tuticorin. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the respondent vide his order in GSTIN: 33AALCP3969M1ZQ dated 18.01.2024 (Tax Period:April-2022 to Sep-2022) and quash the same as it is illegal, without jurisdiction and in gross violation of principles of natural justice and further direct the respondent to redo the assessment afresh after providing an opportunity of personal hearing as per the provisions of the GST Act.

For petitioner : Mr.A.Satheesh Murugan
For respondent : Mr.R.Suresh Kumar
Additional Govrnment Pleader
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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 the learned Additional Government Pleader for the respondent.

2. The petitioner has challenged the impugned assessment order in GSTIN: 33AALCP3969M1ZQ for the assessment period from April-2022 to Sep-2022 dated 18.01.2024.

3. The impugned order precedes the notices in ASMT-10 dated 23.12.2022, DRC 01A dated 14.02.2023 and DRC 01 dated 10.03.2023 and also three personal hearing notices dated 10.05.2023, 05.06.2023 and 23.06.2023.

4. It is the case of the petitioner that the Managing Director of the petitioner namely, Immavuvel Raviraj met with a serious accident on 05.10.2023 and was hospitalized since then and he is still recovering from injuries.

5. The learned counsel for the petitioner has also produced a copy of the medical certificate and the discharge summary dated 27.04.2024 issued by the MIOT Hospitals Private Limited, Chennai.

6. Under these circumstances, the petitioner could not reply to any of the notices that preceded the impugned order. Hence, the petitioner may be given one opportunity to substantiate the case.

7. On the other hand, the learned Additional Government Pleader for the respondent submits 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 further 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 therefore, this Writ Petition is liable to be dismissed.

7. Having considered the submissions made by the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent and having considered the medical certificate and discharge summary issued by the MIOT Hospitals Private Limited, Chennai, the Court is inclined to exercise the discretion partly in favour of the petitioner by setting aside the impugned order and remitting the case back to the respondent to pass fresh orders on merits and in accordance with law.

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

9. The petitioner shall file a reply to the show cause notice that preceded the impugned order within a period of 60 days from the date of receipt of a copy of this order. The respondent shall pass fresh orders on merits and in accordance with law as expeditiously as possible preferably within a period of 30 days

thereafter. Needless to state, the petitioner shall be heard before passing the order.

This Writ Petition is allowed, with above direction. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes / No
apd

05.07.2024

To

The Assistant Commissioner (ST)-2,
Tuticorin-2 Assessment Circle,
Tuticorin.

C.SARAVANAN, J.

apd

W.P.(MD) No.14906 of 2024

05.07.2024