BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **08.07.2024**

CORAM:

THE HONOURABLE MR.JUSTICE **C.SARAVANAN**

W.P.(MD) No.14901 of 2024
and
W.M.P.(MD) Nos.13066 and 13068 of 2024

Tvl.Sree Balaji General Timber,
represented by its Proprietor
B.Veerapan ... Petitioner

/vs./

The State Tax Officer,
O/o. the Commercial Tax Officer,
Karur – 1, Circle,
Karur, Erode,
Tamilnadu. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records on the file of the respondent in its impugned proceedings of the Respondent Order for the Assessment year 2019-20 bearing Ref.No.ZD330224081227N in GSTIN.33ADNPV8362J1ZU dated 14.02.2024 and the Consequential DRC-07 order dated 14.02.2024 , and quash the same.

For Petitioner : Mr.S.Rajasekar

For Respondent : Mr.J.K.Jayaselan
Government Advocate

ORDER

In this writ petition, the petitioner has challenged the impugned assessment order passed under Section 74 of the respective GST enactments by the respondent dated 14.02.2024 for the assessment year 2019-20.

2.The impugned order has preceded the notices in GST DRC 01A dated 21.04.2023, the notice in GST DRC 01 dated 03.07.2023 and 3 personal hearing notices. To none of the notices, the petitioner has responded.

3.Prior to the above notices, the return filed by the petitioner was also analyzed and it is the case of the petitioner that the estimated turn over based on the GSTR 07 and the taxable turn over as per GSTR 3B are as under:

PARTICULARS	***TURN OVER***
ESTIMATED TURNOVER BASED ON GSTR7	*7115727.00*
TAXABLE TURNOVER AS PER GSTR3B	*7263536.00*
TURNOVER MISMATCH (GSTR7-GSTR3B)	*-147809.00*
GSTR7 TURNOVER	*7115727.00*
GSTR1 TURNOVER	
TURNOVER MISMATCH (GSTR7-GSTR-1	*7115727.00*

4.However, in the notices that preceded the impugned order in GST DRC 01A and GST DRC 01, curiously Rs.5,17,72,794/- has been stated in the GSTR 7. Hence, the learned counsel for the petitioner submits that the petitioner may be given one opportunity to reply back, so that correct assessment order can be made by the respondent.

5.The learned Government Advocate for the respondent, on the other hand, would submit that the writ petition is devoid of merits, as the petitioner has voluntarily failed to respond to the notices that preceded the impugned order and thus, has suffered the impugned order and should therefore file a statutory appeal under Section 107 of the respective GST enactment, 2017.

6.Having considered the submissions made by the learned counsel for the petitioner and the learned Government Advocate for the respondent, I am inclined to conclude that the petitioner deserves a fresh chance to explain the case.

7.Considering the same, the impugned order is set aside and the case is remitted back to the respondent to pass a fresh order on merits and in accordance with law subject to the petitioner depositing 5% of the disputed tax to the credit of the Department from its Electronic Cash Register within a period of 4 weeks from the date of receipt of a copy of this order.

8.Along with pre-deposit, the petitioner shall file a reply to the show cause notice issued to the petitioner earlier. The impugned order, which stands quashed, shall be treated as addendum to the show cause notice in GST DRC 01A and GST DRC 01 and the personal hearing notices. The petitioner shall also be heard before fresh orders are passed.

9.Accordingly, the Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No **08.07.2024**
Internet : Yes / No
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To

The State Tax Officer,
O/o. the Commercial Tax Officer,
Karur – 1, Circle,
Karur, Erode, Tamilnadu.

C.SARAVANAN, J.

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W.P.(MD) No.14901 of 2024

08.07.2024