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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **12.07.2024**

CORAM:

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

W.P.(MD) No.15573 of 2024
and
W.M.P.(MD) No.13630 of 2024

M/s.Janci Stores,
rep. by its Proprietor
Devadasan David ... Petitioner

/vs./

The Assistant Commissioner (ST),
Sivakasi Assessment Circle,
Sivakasi. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records in the impugned Order Ref.No.ZD330424228766A dated 29.04.2024 issued by the Respondent and quash the same is wholly without jurisdiction and clear violation of statutory provisions and direct the respondent to consider the representation filed by the petitioner afresh after affording the opportunity of personal hearing.

For Petitioner : Mr.S.Karunakar
For Respondent : Mr.R.Suresh Kumar
Additional Government Pleader

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ORDER

Heard Mr.S.Karunakar, learned counsel for the petitioner and Mr.R.Suresh Kumar, learned Additional Government Pleader for the respondent.

2.The petitioner has filed this writ petition for a Writ of Certiorarified Mandamus quash the impugned order dated 29.04.2024 bearing Ref.No.ZD330424228766A of the respondent and to direct the respondent to consider the representation filed by the petitioner afresh after affording the opportunity of personal hearing.

3.The petitioner is running a super market and is before this Court against the impugned order dated 29.04.2024 passed by the respondent for the assessment year 2018-19.

4.The impugned order precedes the notice in DRC 01 dated 27.12.2023. The petitioner has given a detailed reply on 23.01.2024. The respondent has confirmed the demand in the impugned order after extracting the content of the reply of the petitioner. Operative portion of the impugned order reads as under:

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"The Proper Officer Conclusion:

The taxpayer reply carefully considered and not acceptable. Hence, this SCN is confirmed.

Form in DRC 07 is issued.

Note: The payment should be made through online under 'payment against demand' head in your GST login.

KOIL PILLAI GOPI RANJITH   *Digitally signed by KOIL PILLAI GOPI RANJITH*
Date: 2024.04.29 09:42:53 +05'30'

Place Sivakas?   *Assistant Commissioner (ST) (FAC)*
Date 29.04.2024   *Sivakasi-1 Assessment Circle"*

5.Reading of the above indicates that there is a total non application of mind. Therefore, the impugned order is set aside and the matter is remitted back to the respondent to pass a fresh order on merits and in accordance with law subject to the petitioner depositing 25% of the disputed tax to the credit of the respondent through its Electronic Cash Register.

6.The impugned order, which stands quashed, shall be treated as addendum to the show cause notice in DRC 01 dated 27.12.2023. Needless to state that the petitioner shall be heard and the amount to be paid by the petitioner as condition

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for the case to be reheard shall be without prejudice to the rights of the petitioner on merits.

7.In case, the demand is dropped, the amount shall be returned or adjusted against the future tax liability of the petitioner. In case, the demand is confirmed, the amount shall be appropriated and the balance be recovered from the petitioner in the manner known to law. In case, the petitioner fails to deposit the amount within the aforesaid period, it will be construed as this writ petition was dismissed at the time of admission.

8.The Writ Petition stands allowed, accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes / No
Internet : Yes / No
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12.07.2024

To

The Assistant Commissioner (ST),
Sivakasi Assessment Circle,
Sivakasi.

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C.SARAVANAN, J.

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