BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **19.07.2024**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.16096 of 2024
and
W.M.P(MD)No.13989 & 13990 of 2024

Tvl.Makeman Industries,
Represented by its Proprietor Kamaraj. ... Petitioner

Vs.

1.The Deputy Commissioner (ST),
(GST Appeal), Madurai & Tirunelveli,
Commercial Taxes Buildings,
Re-serve Lane, High Ground Road,
Palayamkottai,
Tirunelveli.

2.The Deputy Commissioner (ST),
Sivakasi Division,
Commercial Taxes Buildings,
Sivakasi.

3.The State Tax Officer (Main),
Srivilluputhur Circle,
Commercial Taxes Buildings,
Srivilliputhur, Virudhunagar. ... Respondents

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 exparte proceedings passed by the first respondent in AP/GST-D/226/2021 dated 23.05.2024 and quash the same as arbitrary, invalid and against the principles of natural justice and to direct the first respondent to take up the appeal on file and to dispose of the same on its merits after granting the petitioner an opportunity of personal hearing as per the provisions of the TNGST/CGST Act, 2017.

For petitioner	: Mr.A.Satheesh Murugan
For respondents	: Mr.R.Suresh Kumar Additional Government Pleader

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ORDER

The petitioner is before this Court against the impugned order dated 23.05.2024 in Appeal No.AP/GST-D/226/2021 against the Order-in-Original dated 14.07.2020 bearing reference in Order No.ZB3307200525223.

2. By the aforesaid Order-in-Original No. ZB3307200525223, the third respondent had allowed the refund claim of the petitioner. Aggrieved by the same, the second respondent had filed an Appeal in Appeal No.AP/GST-D/226/2021 before the first respondent.

3. It is noticed that the notice was issued to the petitioner on 23.07.2021, pursuant to which, the petitioner's counsel filed vakalat. Thereafter, the notice for

personal hearing dated 06.05.2024 was sent to the petitioner by fixing the hearing dated on 09.05.2024. Same was received by the petitioner only on 11.05.2024. Thus, the petitioner could not appear on 09.05.2024. It is, therefore, submitted that an *ex parte* order, that was passed by the first respondent allowing the appeal, and is therefore, liable to be interfered with.

4. Having perused the records, the Court is of the view that this is the fit case for exercising the jurisdiction in favour of the petitioner by setting aside the impunged order in Appeal No.AP/GST-D/226/2021 dated 23.05.2024 and remitting the case back to the first respondent to pass a fresh order on merits and in accordance with law within a period of three months from the date of receipt of a copy of this order. Needless to state, the petitioner shall be heard before the final orders are passed.

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

Index : Yes / No
Internet : Yes / No
apd

19.07.2024

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C.SARAVANAN, J.

apd

W.P.(MD) No.16096 of 2024

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