BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.07.2024

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.15875 of 2024
and
W.M.P.(MD) Nos.13797, 13798 & 13800 of 2024

S.Sivachandran ... Petitioner

Vs.

1.The Deputy Commissioner
(State Tax) (GST Appeal),
Commercial Tax Building,
Dr.Thangaraj Salai,
Madurai – 625 020.

2.The Assistant Commissioner (ST),
Madurai Rural East Assessment Circle,
Madurai – 625 020. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the second respondent in GSTIN:33ARUPS2296M1ZU/2018-2019 dated 22.04.2024 and quash the same and consequently to direct the respondents to drop all further proceedings initiated on the basis of the impugned order passed by the second respondent in GSTIN:33ARUPS2296M1ZU/2018-2019 dated 22.04.2024.

For Petitioner : Mr.R.Aravindan

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

ORDER

The petitioner is before this Court challenging the impugned order dated 22.04.2024 passed by the second respondent for the Assessment Year 2018-2019 which precedes with Notice in Form GST ASMT-10 dated 10.02.2021, Show Cause Notice in Form GST DRC-01 dated 12.01.2024 issued under Section 74 of the respective GST Enactments and the Personal Hearing Notices dated 20.02.2024 & 25.03.2024. The petitioner has replied to the above Notices.

2. Although the learned counsel for the petitioner would submit that the Show Cause Notice in Form GST DRC-01 dated 12.01.2024 does not contain any ingredients to invoke the period of limitation under Section 74(10) of the respective GST Enactments, it is noticed that there is allegation in the Show Cause Notice that the petitioner has reported the turnover as detailed in the Show Cause Notice and has willfully failed to pay the corresponding tax with intention to evade the tax lability.

Therefore, it cannot be said that the Show Cause Notice does not contain any ingredients to invoke Section 74 of the respective GST Enactments.

3. The petitioner may have a case on merits. However, that would be subject matter of appeal.

4. Under these circumstances, this Writ Petition is disposed of with liberty to the petitioner to file statutory appeal under Section 107 of the respective GST Enactments before the Appellate Authority namely, Appellate Deputy Commissioner (ST) (GST Appeal), C.T.Building, Dr.Thangarajsalai, Madurai 625020, the first respondent herein, within a period of 30 days from today subject to the petitioner depositing 10% of the disputed tax. If the petitioner has already deposited any amount out of the amount confirmed in the impugned order, the same shall be waived from the pre-deposit amount mentioned above.

5. The first respondent shall admit the proposed appeal, if it is filed by the petitioner within the specified time, complying with the above directions, and dispose of it on merits. All the issues are left open to the petitioner to canvass before the first respondent.

6. In the result, this Writ Petition stands disposed of with the above liberty. No costs. Consequently, connected Miscellaneous Petitions are closed.

16.07.2024

Index: Yes / No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order

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Copy To:

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2.The Assistant Commissioner (ST),
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Madurai – 625 020.

C.SARAVANAN, J.

JEN

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