



W.P.(MD) No.16236 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.07.2024

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD)No.16236 of 2024

and

W.M.P.(MD)Nos.14108, 14109 and 14111 of 2024

P.Kannan

... Petitioner

Vs.

1.The Deputy State Tax Officer,
Nagercoil - 2,
Kanyakumari District.

2.The Deputy Commissioner [ST],
131, Mead Street,
Nagercoil - 629001,
Kanyakumari District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorari, calling for the records relating to the impugned order passed by the first respondent in GSTIN No. 33AQBPK5340E1ZD/2018-19 dated 14.03.2024 and GSTIN No. 33AQBPK5340E1ZD/2019-20 dated 15.03.2024 and quash the same.

For Petitioner : Mr.J.Sivaram

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



W.P.(MD) No.16236 of 2024

ORDER

WEB COPY The petitioner is before this Court against the respective impugned orders for the Assessment Years 2018-2019 and 2019-2020 dated 14.03.2024 and 15.03.2024, respectively.

2. The impugned orders have preceded notices issued in Form – DRC 01A and DRC 01 and reminders calling upon the petitioner to participate in the personal hearing. The petitioner has however failed to take advantage of the same and has thus, now filed this Writ Petition stating that there is a violation of principles of natural justice.

3. It is the case of the petitioner that the show cause notice was never received by the petitioner and therefore, the impugned orders are liable to be quashed. That apart, it is submitted that a part of the demand is covered under the Finance Act, 1994. It is submitted that the service provided by the petitioner is exempted in terms of Mega Exemption Notification No.25/2012-ST, dated 20.06.2012 as amended from time to time.



W.P.(MD) No.16236 of 2024

4. That apart, on merits, the learned counsel for the petitioner would submit that the issue is no longer *res integra* and is squarely covered by the decision of the Hon'ble Supreme Court in **Larsen and Toubro Limited and another vs. State of Karnataka and another**, 2014 (1) SCC 708 : 2014 (303) ELT 3 (SC).

5. On the other hand, the learned Government Advocate for the respondents would submit that the Writ Petition is devoid of merits, as the petitioner has an alternate and efficacious remedy before the Appellate Authority.

6. Having considered the submissions made by the learned counsel for the petitioner and the learned Government Advocate for the respondents and having considered the fact that the petitioner has not participated in the show cause notice proceedings that preceded the impugned orders, I am of the view that the petitioner can be given a partial reprieve at this stage by quashing the impugned orders on terms.

7. The petitioner shall deposit 25% of the disputed tax to the credit of the first respondent within a period of 30 days from the date of receipt



W.P.(MD) No.16236 of 2024

of a copy of this order. The respective impugned orders which stand quashed today shall be treated as Addendum to the show cause notice already issued to the petitioner in Form DRC 01. The petitioner shall file a reply within a period of 30 days from the date of receipt of a copy of this order. It is expected that the first respondent shall pass final orders on merits and in accordance with law within a period of two months thereafter. Needless to state the petitioner shall be heard before the final orders are passed. The amount that has to be recovered pursuant to this order shall be recovered and thereafter, the accounts of the petitioner is directed to be defreezed.

8. This Writ Petition stands disposed of with the above directions.

No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes/ No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order
smn2
To

23.07.2024

1.The Deputy State Tax Officer,
Nagercoil - 2,
Kanyakumari District.



W.P.(MD) No.16236 of 2024

2.The Deputy Commissioner of State Tax,
131, Mead Street,
Nagercoil - 629001,
Kanyakumari District.



WEB COPY



W.P.(MD) No.16236 of 2024

C.SARAVANAN, J.

smn2

W.P.(MD)No.16236 of 2024

23.07.2024