BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **25.07.2024**

CORAM:

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

W.P.(MD) No.16985 of 2024

Sundarapandian ... Petitioner

/vs./

1.The State Tax Officer -1,
Date Analytical Unit,
O/o. the Joint Commissioner,
(ST) (Intelligence),
Erode Division, Erode.

2.The Joint Commissioner,
(ST) (Intelligence),
Trichy Division, Trichy.

3.State Tax Officer (ST) (FAC),
Kulithalai Assessment Circle,
Kulithalai. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records of the 1st respondent passed in GSTIN.33BLUPS2874N1Z3/2017-2018 dated 12.02.2024 and quash the same and consequently direct the respondents to accept the returns filed by the petitioner and drop the proceedings initiated by the 1st respondent under the authorization of the 2nd respondent.

For Petitioner : Mr.M.Madasamy

For Respondents : Mr.R.Suresh Kumar
Additional Government Pleader

ORDER

Heard Mr.M.Madasamy, learned counsel for the petitioner and Mr.R.Suresh Kumar, learned Additional Government Pleader for the respondents.

2.The petitioner is before this Court challenging the impugned order dated 12.02.2024 passed by the first respondent for the assessment year 2017-18.

3.The case of the petitioner is that the impugned order has been passed in gross violation of principles of natural justice, as none of the notices referred to in the preamble to the impugned order have been served on the petitioner. It is therefore submitted that the impugned order suffers from gross violation of principles of natural justice and is liable to be quashed.

4.On the other hand, the learned Additional Government Pleader appearing for the respondents would submit that the petitioner has an alternate remedy before the Appellate Deputy Commissioner (ST) GST Appeals.

5.It is submitted that all the notices were sent to the petitioner in accordance with the provisions of the respective GST enactment and the petitioner failed to avail the opportunity and has now rushed to the Court challenging the impugned order. It is submitted that there is no merit in this writ petition and is therefore liable to be dismissed.

6.Having considered the submissions made by the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents, I am of the view that the petitioner can be given one opportunity to explain the case afresh, taking note of the fact that even though the attempt of the Government and the legislature is to deliver the notices through Electronic means ie., through e-mail on the GST common portal, many of the assesses are still getting used to the same.

7.Considering the same, the impugned order is set aside and the case is remitted back to the first respondent to pass a fresh order on merits and in accordance with law subject to the petitioner depositing 10% of the disputed tax. The impugned order, which stands quashed, shall be treated as addendum to the show cause notice issued in 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. The first respondent shall thereafter pass a fresh order on merits and in accordance with law within a period of two months. Needless to state that the petitioner shall also be heard before final orders are passed.

8.With the above directions, this Writ Petition stands allowed. No costs.

25.07.2024

Index : Yes / No
Internet : Yes / No
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Kulithalai.

C.SARAVANAN, J.

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