BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **25.07.2024**

CORAM:

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

W.P.(MD) No.16994 of 2024
and
W.M.P.(MD) No.14639 of 2024

Tvl.Kalaimagal Stores,
rep. by Partner,
T.Balamurugan ... Petitioner

/vs./

The Deputy Tax Officer,
Station: Main Bazaar Street,
Uthamapalayam,
Theni District. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the impugned assessment order on the file of respondent vide GSTIN-33AAOFK1286A1ZL/2017-18 dated 18.12.2023 and quash the same as illegal and devoid of merits and direct the respondent to redo the assessment proceedings for the year 2017-18.

For Petitioner : Mr.Raja.Karthikeyan
For Respondent : Mr.R.Suresh Kumar
Additional Government Pleader

ORDER

This writ petition is disposed of at the time of admission after hearing the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent, as the petitioner had failed to participate in the show cause proceeding that preceded the impugned order.

2.Although the notices that preceded the impugned order would have been served on the petitioner through GST portals, it appears that the petitioner had failed to notice the same and thus, has suffered an adverse order, which is impugned before this Court. For the same reason, the petitioner has also not filed any statutory appeal or this writ petition earlier.

3.Although the learned Additional Government Pleader for the respondent would submit that the writ petition is liable to be dismissed on account of the decision of the Hon'ble Supreme Court in ***Assistant Commissioner (CT) LTU, Kakinada and others Vs. Glaxo Smith Kline Consumer Health Care Limited*** reported in ***2020 SCC Online SC 440*** and the appeal will also be time barred in terms of the decision of the Hon'ble Supreme Court in ***Singh Enterprises Vs.***

Commissioner of C.Ex., Jamshedpur reported in ***2008 (221) E.L.T. 163 (S.C)***, I am of the view that the petitioner can be given one opportunity to explain the case afresh before the respondent subject to the petitioner depositing 25% of the disputed tax from its Electronic Cash Register.

4.The impugned order, which stands quashed, shall be treated as addendum to the show cause notice issued to the petitioner earlier. The petitioner shall file a reply within a period of 30 days from the date of receipt of a copy of this order. The 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.

5.With the above directions, this Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

25.07.2024

Index : Yes / No
Internet : Yes / No
mm

To

The Deputy Tax Officer,
Station: Main Bazaar Street,
Uthamapalayam,
Theni District.

C.SARAVANAN, J.

mm

W.P.(MD) No.16994 of 2024

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