BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.07.2024

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THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD)No.17839 of 2024

Sundarapandian, S/o.Perumal ... Petitioner

Vs.

1.The State Tax Officer – 1,
Data Analytical Unit,
Office of the Joint Commissioner (ST) (Intelligence),
Erode Division,
Erode.

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

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

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the first respondent passed in GSTIN 33BLUPS2874N1Z3/2020-2021 dated 12.02.2024, quash the same and consequently, direct the respondents to accept the returns filed by the petitioner and drop the proceedings initiated by the first respondent under the authorization of the second respondent.

For Petitioner : Mr.T.M.Madasamy

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

ORDER

In this Writ Petition, the petitioner has challenged the impugned Assessment Order dated 12.02.2024 passed by the first respondent for the Assessment Year 2020-2021.

2. By the impugned order, the demand proposed in DRC – 01A dated 26.10.2023 and DRC 01 dated 15.11.2023 have been confirmed.

3. It is noticed that the petitioner has failed to respond to the notices and therefore, the impugned order has been passed confirming the demand proposed in the above mentioned notices.

4. The learned counsel for the petitioner submits that the petitioner is a Government Contractor and failed to notice that the notices that preceded the impugned order hosted in the common Web Portal and seeks one opportunity to file a reply.

5. The learned counsel for the petitioner submits that the petitioner is amenable to any reasonable conditions, this Court may impose.

6. On the other hand, the learned Government Advocate for the respondents submits that the impugned order does not warrant any interference under Article 226 of the Constitution of India, as the petitioner has an alternate remedy before the Appellate Commissioner under Section 107 of the respective GST Enactments.

7. Having considered the submissions made by the learned counsel for the petitioner and the learned Government Advocate for the respondents, it is noticed that the dispute arises on account of difference in the turnover in GSTR – 7 and GSTR – 3B. Perhaps, if the petitioner had responded to the notices that preceded the impugned order, the petitioner may have succeeded.

8. In my view, the petitioner deserves a fresh chance to explain the case although no fault can be attributed to the first respondent for passing the impugned order, as there was no reply. 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 subject to the petitioner depositing 10% of the disputed tax to the credit of the Government from his Electronic Cash Register within a period of 30 days from the date of receipt of a copy of this order. The impugned order which stands quashed in this order shall be treated as Addendum to the show cause notices already issued to the petitioner that preceded the impugned order. The petitioner shall file a reply within a period of 30 days from today. The first respondent shall adjudicate the proceedings and pass fresh orders on merits within a period of two months thereafter. Needless to state the petitioner shall also be heard before final orders are passed.

9. This Writ Petition stands disposed of with the above directions. No costs.

30.07.2024

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

To

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Kulithalai, Karur District.

C.SARAVANAN, J.

smn2

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