BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **30.07.2024**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.17461 of 2024
and
W.M.P.(MD)Nos.15000 & 15002 of 2024

Tvl.ABJ Agency,
Represented by its Proprietor S.Anthoniraj. ... Petitioner

Vs.

The Deputy State Tax Officer-1,
Devakottai Assessment Circle,
Sivagangai. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for the records pertaining to the impugned order of the respondent in reference No.33DAVPS3549J1ZX/2018-19 dated 29.04.2024 and quash the same as it is illegal, without jurisdiction and passed in gross violation of principles of natural justice.

For petitioner : Mr.A.Satheesh Murugan

For respondent : Mr.R.Suresh Kumar
Additional Government Pleader
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ORDER

The petitioner is before this Court against the impugned order dated 29.04.2024 passed by the respondent for the assessment year 2018-19 bearing reference in 33DAVPS3549J1ZX/2018-19.

2. By the impugned order, the respondent has confirmed the demand proposed in DRC 01 dated 19.03.2024.

3. The learned counsel for the petitioner fairly concedes that the petitioner failed to reply to the same and participate in the personal hearing pursuant to the personal hearing notices issued thereafter.

4. It is submitted that the petitioner was under the impression that the dispute in respect of which the demand has now been confirmed, had already been settled after the petitioner had responded with the reply in ASMT 11 dated 17.12.2021 in response to the notice in ASMT 10 dated 30.11.2021 and GST DRC 01A dated 30.11.2021.

6. The learned counsel for the petitioner submits that the petitioner failed to notice the notices that preceded the impugned order and that the petitioner had assumed that in view of dropping the demand *vide* order dated 07.06.2024 in ASMT 12 issued under Rule 99(3) of the GST Rules, 2017, no further demand was due payable from the petitioner.

7. On the other hand, the learned Additional Government Pleader for the respondent would submit that the petitioner has an alternative remedy by way of an appeal before the Appellate Commissioner in terms of Section 107 of the respective GST enactments and therefore, the Writ Petition is liable to be dismissed.

8. Having considered the submissions made by the learned counsel for the petitioner and learned Additional Government Pleader for the respondent, the Court is of the view that the petitioner deserves fair chance to reply the same in view of the peculiar circumstance of this case as the demand was earlier dropped *vide* order in GST ASMT 12 dated 07.06.2024, pursuant to the notice in ASMT 10 dated 30.11.2021 and notice in DRC 01A also dated 30.11.2021.

9. Although the petitioner has not responded to the notices that preceded the impugned order, the Court is of the view the interest of justice will be served if the petitioner is given one opportunity to participate in the impugned order proceedings subject to the petitioner filing a reply to the notice in DRC 01 dated 19.03.2024 together with the deposit of 10% of the disputed tax. Subject to the petitioner depositing 10% of the disputed tax from its Electronic Cash Register to the credit of the respondent within a period of 30 days from the date of receipt of a copy of this order, the impugned order is set aside and the case is remitted back to the respondent to pass fresh orders on merits.

10. The impugned order, which stands quashed, shall be treated as addendum to the show cause notice that preceded the impugned order.

11. It is expected that the petitioner shall file a reply within a period of 30 days from the date of receipt of a copy of this order, together with above deposit. The respondent shall pass a fresh order on merits and in accordance with law as expeditiously as possible preferably within a period of two months thereafter. Needless to state, the petitioner shall be heard before passing the order.

This Writ Petition is disposed of, with above direction. No costs. Consequently connected miscellaneous petitions are closed.

30.07.2024

Index : Yes / No
Internet : Yes / No
apd

To

The Deputy State Tax Officer-1,
Devakottai Assessment Circle,
Sivagangai.

C.SARAVANAN, J.

apd

W.P.(MD)No.17461 of 2024

30.07.2024