



W.P.(MD) No.16759 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

**W.P.(MD) No.16759 of 2024
and
W.M.P(MD).Nos.14490 & 14491 of 2024**

Tvl. Vel Agency,
Represented by its Proprietor K.T.Senthilkumar.

... Petitioner

Vs.

1.The State Tax Officer,
Woraiyur Assessment Circle,
Thillai Nagar,
Trichy – 620 018.

2.The Assistant Commissioner (ST),
Woraiyur Assessment Circle,
Thillai Nagar,
Trichy – 620 018.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for the records relating to the impugned order passed by the first respondent in his proceedings in GSTIN: 32CYEPS8741J1ZY/2018-19 dated 22.03.2024 and quash the same.

For petitioner : Mr.J.Sivaram

For respondents : Mr.J.K.Jayaseelan



W.P.(MD) No.16759 of 2024

WEB COPY

Government Advocate

ORDER

Heard the learned counsel for the petitioner and the learned Government Advocate for the respondent.

2. The petitioner is before this Court against the impugned order dated 22.03.2024 passed by the first respondent for the assessment years 2018-19 bearing reference in GSTIN:33CYEPS8741J1ZY.

3. The learned counsel for the petitioner submits that the demand has been confirmed purely based on the variance in the amount in GSTR 3B and the Returns filed by the petitioner in auto-populated Return in GSTR 2A.

4. It is submitted that the difference is only Rs.3983.65/-. However, it is noticed that the petitioner has failed to respond to the notices in DRC 01A dated 16.10.2023, notice in DRC 01 dated 12.01.2024 and three personal hearing notices dated 21.02.2024, 28.02.2024 and 18.03.2024 issued to the petitioner, which are mentioned in the reference column/preamble to the impugned order.



W.P.(MD) No.16759 of 2024

WEB COPY

5. The above submission is opposed by the learned Government Advocate for the respondent, on the ground that the Writ Petition is hopelessly time barred and therefore, liable to be dismissed, on account of laches, in the light of the decision of the Hon'ble Supreme Court in the case of *Assistant Commissioner (CT) LTU, Kakinada and others vs. Glaxo Smith Kline Consumer Health Care Limited* reported in *2020 SCC Online SC 440*.

6. It is submitted that the appellate remedy is also time barred in terms of limitation under Section 107 of the respective GST Enactments as held by the Hon'ble Supreme Court in the case of *Singh Enterprises Vs. Commissioner of Central Excise, Jamshedpur and others* reported in *(2008) 3 SCC 70* and submitted that this Writ Petition is liable to be dismissed.

7. Having considered the arguments advanced by the learned counsel for the petitioner and the learned Government Advocate for the respondent, this Court is of the view that the petitioner may have a case on merits and therefore, discretion is partly exercised in favour of the petitioner and quashed the impugned order, subject to the petitioner depositing 25% of disputed tax to the



W.P.(MD) No.16759 of 2024

credit of the respondent from his Electronic Cash Register within a period of 30 days from the date of receipt of this order.

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

9. 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. The respondent shall pass fresh orders 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.

Index : Yes / No
Internet : Yes / No
apd

24.07.2024



W.P.(MD) No.16759 of 2024

WEB COPY

To

1.The State Tax Officer,
Woraiyur Assessment Circle,
Thillai Nagar,
Trichy – 620 018.

2.The Assistant Commissioner (ST),
Woraiyur Assessment Circle,
Thillai Nagar,
Trichy – 620 018.



WEB COPY



W.P.(MD) No.16759 of 2024

C.SARAVANAN, J.

apd

W.P.(MD) No.16759 of 2024

24.07.2024