BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **26.07.2024**

CORAM:

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

W.P.(MD) 17309 to 17312 of 2024
and
W.M.P.(MD) Nos.14891, 14890, 14892 and 14894 of 2024

Tvl.Suresh Auto Agency,
rep. by its Proprietor
R.Mahadevaram
... Petitioner in all W.Ps.,

/vs./

The Assistant Commissioner (ST),
Tirunelveli Junction Circle,
Tirunelveli.
... Respondent in all W.Ps.,

COMMON PRAYER: Writ Petitions 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. 33CFSPM7037N1ZQ/2020-21, 33CFSPM7037N1ZQ/2019-20, 33CFSPM7037N1ZQ/2022-23 and 33CFSPM7037N1ZQ/2021-22 dated 31.07.2023 and quash the same as illegal and devoid of merits and direct the respondent to redo the assessment proceedings for the year 2020-21, 2019-20, 2022-23 and 2021-22.

For Petitioner
in all W.Ps., : Mr.Raja.Karthikeyan

For Respondent
in all W.Ps., : Mr.J.K.Jayaselan
Government Advocate

COMMON ORDER

By this common order, all these writ petitions are being disposed of.

2.In these writ petitions, the petitioner has challenged the impugned assessment orders all dated 31.07.2023 passed for the following assessment years 2020-21, 2019-20, 2022-23 and 2021-22.

3.The specific case of the petitioner is that an inspection was carried out, pursuant to which the petitioner cooperated with the respondent, cured the defects and paid the deficit tax due from the petitioner except for a small portion towards SGST for the assessment year 2020-21.

4.The learned counsel for the petitioner submits that the petitioner being a small unit was unaware of the notices that preceded the impugned order and had assumed that with the payment of the amounts on 25.08.2022 and 26.08.2022, the issue stood resolved in all respect.

5.It is submitted that the petitioner being a small unit failed to notice that the petitioner was issued with notices in DRC 01A and DRC 01 and thus, the petitioner failed to respond to the same. It is submitted that for the very same reason, the petitioner had also failed to note that the impugned order had been passed on 31.07.2023 for the above mentioned assessment years.

6.The learned counsel for the petitioner submits that the petitioner may be given one opportunity to explain the case afresh. According to the petitioner, the petitioner has a good case on merits to succeed, if an opportunity is given.

7.On the other hand, the learned Government Advocate for the respondent would submit that the writ petitions are liable to be dismissed in the light 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***.

8.It is submitted that even the appeal at this stage will be time barred in terms of the limitation prescribed under Section 107 of the TNGST Act, 2017, in the light of the decision of the Hon'ble Supreme Court in ***M/S.Singh Enterprises Vs. Commissioner of Central Excise, Jamshedpur and others*** reported in ***(2008) 3 SCC 70***.

9.Having considered the submissions made by the learned counsel for the petitioner and the learned Government Advocate for the respondent, the Court is inclined to exercise its discretion in favour of the petitioner after recording the submission of the learned counsel for the petitioner that the petitioner is willing to deposit 25% of the disputed tax to the credit of the respondent.

10.Recording the same, the Writ Petition stands allowed. The impugned orders, which stands quashed, shall be treated as addendum to the show cause notices 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 petitioner shall deposit the aforesaid amount from its Electronic Cash Register within the aforesaid period. It is expected that the respondent shall pass thereafter a final order on merits and in accordance with law within a period of 3 months. No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No
Internet : Yes / No
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26.07.2024

To

The Assistant Commissioner (ST),
Tirunelveli Junction Circle,
Tirunelveli.

<u>C.SARAVANAN, J.</u>

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W.P.(MD) 17309 to 17312 of 2024

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