BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **31.07.2024**

CORAM:

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

W.P.(MD) No.17848 of 2024
and
W.M.P.(MD) Nos.15308 and 15309 of 2024

Tvl.Raj Balaa Battery Shop,
rep. by its Proprietor
Jeya Chandran Tamil Selvi ... Petitioner

/vs./

The State Tax Officer (ST),
Tuticorin -3 Circle,
Commercial Taxes Buildings,
Tuticorin District. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for records pertaining to the impugned order passed by the Respondent vide his order in GSTIN 33ACYPT5235C1ZC, Tax period 2018-19 dated 27.02.2024 and quash the same as it is illegal and in gross violation of Principles of Natural Justice and further direct the Respondent to re-do the assessment afresh after providing an opportunity of Personal Hearing as per the provisions of the GST Act.

For Petitioner : Mr.A.Satheesh Murugan

For Respondent : Mr.R.Suresh Kumar
Additional Government Pleader

ORDER

The petitioner is before this Court against the impugned order passed by the respondent on 27.02.2024 for the assessment year 2018-19.

2.The specific case of the petitioner is that the petitioner's RC registration was cancelled on 16.02.2024 with effect from 31.12.2023 pursuant to the show cause notice dated 31.08.2023 for the following reasons:

> *“The effective date of cancellation of your registration is 31/12/2023*
>
> *2.Kindly refer to the supportive document(s) attached for case specific details.-Not Applicable*
>
> *3.It may be noted that a registered person furnishing return under sub-section (1) of section 39 of the CGST Act, 2017 is required to furnish a final return in FORM GSTR-10 within three months of the date of this order*
>
> *4.You are required to furnish all your pending returns.*
>
> *5.It may be noted that the cancellation of registration shall not affect the liability to pay tax and other dues under this Act or to discharge any obligation under this Act or the rules made thereunder for any period prior to the date of cancellation whether or not such tax and other dues are determined before or after the date of cancellation.”*

3.It is submitted that since the registration was cancelled, the petitioner had failed to note that the petitioner was issued with the notice in DRC 01A, notice in DRC 01, notice in GSTR 10 as specified in the preamble to the order.

4.It is submitted that for the same reason, the petitioner also failed to note that the personal hearing notices were also sent to the petitioner through GST common portal on various dates as mentioned in the preamble to the order. The learned counsel for the petitioner submits that the petitioner may be given one opportunity to explain the case.

5.Having considered the submissions made by the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent, I am of the view that the petitioner can be given one opportunity to explain the case afresh, as the dispute relates to discrepancy in the input tax credit availed by the petitioner and not reversed under RCM basis.

6.Since the petitioner may have a case on merits, I am inclined to grant liberty to the petitioner to approach the respondent again subject to the petitioner depositing 10% of the disputed tax from its Electronic Cash Register to the credit of the Government.

7.The impugned order, which stands quashed, shall be treated as addendum to the show cause notice issued to the petitioner. 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 be heard, before fresh order is passed.

8.The Writ Petition stands allowed, accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No **31.07.2024**
Internet : Yes / No
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To

The State Tax Officer (ST),
Tuticorin -3 Circle,
Commercial Taxes Buildings,
Tuticorin District.

C.SARAVANAN, J.

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W.P.(MD) No.17848 of 2024

31.07.2024