BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **05.06.2024**

CORAM:

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

W.P.(MD) No.18955 of 2022
and
W.M.P.(MD) Nos.13822 and 13824 of 2022

M/S.Trichy Plus
represented by its Partner,
S.Sivakumar
C-112, Fort Station Road,
Thillai Nagar, Trichy 620 018. ... Petitioner

/vs./

Deputy Commissioner of GST & Central Excise,
Trichy I Division,
No.1, Williams Road,
Cantonment,
Tiruchirappalli 620001 ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records on the file of the Respondent in Order in Original No. 72/2022-ST dated 15.03.2022 and quash the same as illegal and not in accordance with law and consequently direct the Respondent to conduct fresh assessment proceedings after providing a reasonable opportunity of hearing to the petitioner in accordance with law.

For Petitioner : Mr.Ragha Rajeev Menon
For Respondent : Mr.N.Dilip Kumar
Senior Standing Counsel

ORDER

The petitioner has approached this Court against the impugned Order in Original No.72/2022-ST dated 15.03.2022 bearing Ref.C.No.IV/19/73/2020-ST ADJN.

2.By the impugned order, the respondent has confirmed the demand that was proposed in the show cause notice No.56/2020-ST dated 29.12.2020. It appears that the petitioner was given sufficient opportunity to come for personal hearing. Despite the same, the petitioner failed to appear before the respondent.

3.The specific case of the petitioner is that the petitioner is a partnership firm, which was engaged in educational services and that during the Month of February, 2022, one of the partners had suffered due to hepatic ailments and therefore could not appear and thus, the case went un-represented, which has now culminated in the impugned order.

4.It is submitted that the petitioner also could not file a statutory appeal in time, in view of the limitation prescribed under Section 86 of the Finance Act. The learned counsel for the petitioner submits that the petitioner may be given an opportunity to appear before the respondent.

5.The learned counsel for the respondent on the other hand would submit that the writ petition is devoid of merits and is liable to be dismissed, in the light of the decision of the Hon'ble Supreme Court in ***CCT Vs. Glaxo Smith Kline Consumer Health Care Limited*** reported in ***(2020) 19 SCC 681***.

6.Having considered the submissions made by the learned counsel for the petitioner and the learned counsel for the respondent and considering the fact that the petitioner's partner was suffering from hepatic problem during the period, when the case was fixed for hearing, taking note of the same, this Court is inclined to set aside the impugned order after recording the submissions of the learned counsel for the petitioner that the petitioner will deposit 20% of the amount confirmed vide impugned Order in Original No.72/2022-ST dated 15.03.2022 bearing Ref.C.No.IV/19/73/2020-ST ADJN.

7.Subject to the above compliance, the impugned order shall stand quashed and the recovery be stayed. The impugned order, which stands quashed, shall be treated as addendum to the show cause notice No.56/2020-ST dated 29.12.2020. The petitioner shall file a final reply, if any, within a period of 30 days from the date of receipt of a copy of this order and the respondent shall thereafter pass a final order on merits and in accordance with law as expeditiously as possible, preferably within a period of 3 months. The petitioner is directed to co-operate with the respondent, failing which the respondent is at liberty to pass orders based on the available materials.

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

Index : Yes / No
Internet : Yes / No
mm

05.06.2024

C.SARAVANAN, J.

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W.P.(MD) No.18955 of 2022

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