BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **01.08.2024**

CORAM:

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

W.P.(MD) No.18371 of 2024
and
W.M.P.(MD) Nos.15634 and 15636 of 2024

Tvl.Vaigai Printers and Publishers,
rep. by Trustee
N.Pandi ... Petitioner

/vs./

The Assistant Commissioner (ST),
West Veli Street Circle,
Madurai. ... Respondent

PRAYER: Writ Petition 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. 33AAATT6230F1ZT/2017-18 dated 29.12.2023 and quash the same as illegal and devoid of merits and direct the respondent to redo the assessment proceedings for the year 2017-18.

For Petitioner : Mr.Raja.Karthikeyan
For Respondent : Mr.R.Suresh Kumar
Additional Government Pleader

ORDER

The petitioner is before this Court against the impugned order dated 29.12.2023. The impugned order has preceded a notice in DRC 01 dated 19.09.2023 for the assessment year 2017-18 (July 2017 to March 2023).

2.The specific case of the petitioner is that the petitioner had paid the disputed tax immediately on 13.10.2023, which stands confirmed in the impugned order. It is submitted that no case was made out for invoking Section 74 of the respective GST Act.

3.It is submitted that the petitioner however failed to notice that pursuant to the notice in DRC 01 dated 19.09.2023 after the petitioner paid the tax on 13.10.2023, personal hearing notices were issued to the petitioner on 26.12.2023. The learned counsel for the petitioner submits that even otherwise the petitioner is entitled for three personal hearing notices in terms of Section 75 of the respective GST Act.

4.On the other hand, the learned Additional Government Pleader for the respondent would submit that the petitioner has admitted his tax liability by paying the tax on 13.10.2023. It is therefore submitted that the question of petitioner asking for personal hearing after complying with the order cannot be countenanced.

5.The learned counsel for the petitioner at this juncture would submit that the petitioner will not dispute the tax paid on 13.10.2023. He would submit that the petitioner may be given one opportunity to establish that the petitioner had no intention to evade tax and that the mistake, if any, arise only on account of the fact that the petitioner was new to the GST regime and the demand is for the period starting from July 2017 to March 2023.

6.Having considered the submissions made by the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent and considering the fact that the petitioner has also discharged the tax liability and recording the submission of the learned counsel for the petitioner that the petitioner will not claim for any refund of the tax paid on 31.10.2023, liberty is given to the petitioner to give proper explanation to justify that the Department had no reason for invoking Section 74 of the Act against the petitioner.

7.Under these circumstances, the impugned order is quashed and the case is remitted back to the respondent to pass a fresh order on merits and in accordance with law subject to the petitioner giving a reply within a period of 30 days from the date of receipt of a copy of this order. The impugned order, which stands quashed, shall be treated as an addendum to the show cause notice. The respondent shall thereafter pass a fresh order on merits and in accordance with law within a period of 3 months. It is needless to state that the petitioner shall also be heard, before a fresh order is passed.

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

01.08.2024

Index : Yes / No
Internet : Yes / No
mm

To

The Assistant Commissioner (ST),
West Veli Street Circle,
Madurai.

C.SARAVANAN, J.

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W.P.(MD) No.18371 of 2024

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