BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.08.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P(MD)No.19711 of 2024
and
W.M.P(MD)Nos.16697 & 16699 of 2024

P.Alagarsamy ... Petitioner

Vs.

1.The Assistant Commissioner (ST),
West Veli Street Circle,
CT Complex,
Dr.Thangaraj Salai,
K.K.Nagar,
Madurai-625 020.

2.The Executive Engineer,
Public Works Department,
Buildings (Construction & Maintenance)
Division,
Madurai-625 002.

3.The Branch Manager,
Indian Bank,
2/3-G.V.Towers, 1st Floor,
Melakkal Main Road,
Nataraja Nagar, Kochadai,
Madurai-625 016. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to quash the impugned order of detailed proceedings in DRC-07, dated 13.06.2023 passed by the first respondent in so far as relating to penalty of Rs.7,38,396/- (Rupees Seven Lakhs Thirty Eight Thousand Three Hundred and Ninety Six only) and be pleased to direct the first respondent to re-hear the limited issue of penalty under Section 73(9) of the GST Act, 2017 or under Section 125 of the GST Act, 2017 read with TNGST Act, 2017 and pass such further or other orders as this Court.

For Petitioner	:	Mr.S.Renganathan
For R-1 & R-2	:	Mr.J.K.Jayaselan Government Advocate
For R-3	:	Mr.C.Karthik

ORDER

The present writ petition has been filed challenging the impugned order, dated 13.06.2023 only insofar as the levy of penalty under Section 73 of SGST and CGST is concerned.

2. It is submitted by the learned Counsel for the petitioner that the entire tax along with interest has already been paid. It is submitted that the difference in the tax is only in view of the alleged difference between the value of supply reported in GSTR 3B and GSTR 1 and that penalty at 100% invoking Section 73 of the GST Act may not arise as there was neither fraud or any willful statement or suppression. It is also submitted that he was not able to avail the opportunity of personal hearing because of his ill-health. It is also submitted that the petitioner is willing to pay 10% of the penalty and would only request this Court to grant one final opportunity to put-forth their case before the Assessing Authority.

3. The learned Government Advocate for the official respondent do not have any serious objection, considering the fact that, the entire tax and interest and the petitioner is now coming forward to pay 10% of the penalty and the petitioner was unable to participate only due to his ill-health. In view thereof, the writ petition stands disposed of by setting aside the impugned order and directing the first respondent to pass orders afresh after providing the petitioner an opportunity of hearing. The petitioner shall submit their objection within a period of two weeks from the date of receipt of a copy of this order. If any such objection is filed, the same would be considered and orders passed in accordance with law, after granting reasonable opportunity.

4. This writ petition stands disposed of with the above direction. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions stand closed.

20.08.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

To

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2.The Executive Engineer,
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Buildings (Construction & Maintenance)
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3.The Branch Manager,
Indian Bank,
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Melakkal Main Road,
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Madurai-625 016.

MOHAMMED SHAFFIQ, J.

BTR

W.P(MD)No.19711 of 2024

20.08.2024