BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.04.2024

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD)Nos.21976 and 21977 of 2022
&
W.M.P.Nos.16144,16145, 16149 and 16151 of 2022

JEFFERSON SAMUELRAJ PREM PAUL NAYAGAM
Proprietor of M/s. COPAG ABRASIVES
GSTIN NO.33AWTPP6431D1ZE
1/270-4, N.A., N.A, Theri Road
Kattalankulam, Sawyerpuram
Thoothukudi-62851 ... Petitioner in both the cases

Vs.

The Assistant Commissioner (ST) (Circle)
Tuticoin-III Assessment Circle
Commercial Tax Buildings
Tuticorin ... Respondents in both cases

Common Prayer: Writ Petitions filed under Article 226 of Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records on the file of the respondent in GSTIN 33AWTPP6431D1ZE/2017-18 dated 28.03.2022 and GSTIN 33AWTPP6431D1ZE/2018-19 and to quash the same as illegal, arbitrary, wholly without jurisdiction and in violation of principles of natural justice and direct the respondent to pass assessment order afresh after affording an opportunity of personal hearing as contemplated under Sec.75(4) of the Tamilnadu Goods and Services Tax Act 2017.

For Petitioner : Mr.N.Sudalaimuthu

For Respondents : Mr.J.R.Jayaseelamn, Govt.Advocate

C O M M O N O R D E R

By this common order, the above two Writ Petitions are being disposed of.

2. In these Writ Petitions the Writ Petitioner has challenged the impugned orders passed for the assessment year 2017-2018 and 2018-2019 on 28.03.2022. It is noticed that the petitioner has not replied to notices which were issued prior to the issuance of the impugned order dated 28.03.2022. These Writ Petitions have been filed on 14.09.2022. There appears to be a marginal delay in approaching this Court. These Writ Petitions have been filed beyond the statutory period of limitation for filing a statutory appeal before the Appellate Commissioner.

3. Although the learned Government Advocate appearing for the

respondent would rely on the decision of the Hon'ble Supreme Court in ***Assistant Commissioner (CT) LTU, Kakinada and others Vs. Glaxo Smith Kline Consumer Health Care Limited, 2020 SCC OnLine SC 440*** and would state that the Writ Petition is liable to be dismissed.

4. I am of the view that it is a fit case for setting aside the impugned order. Recording the submission of the learned counsel for the petitioner that petitioner will deposit 10% of the disputed tax for the respective assessment year within a period of 30 days from the date of receipt of this order. Petitioner shall also file a reply to the notices which preceded the impugned order within such period. While answering to the show cause notice petitioner shall also reply to the impugned orders as if impugned orders were corrigendum to the notices which preceded the impugned orders.

5. It is expected that respondent will pass appropriate orders on merits and in accordance with law within a period of 60 days thereafter. It is made clear that in case petitioner fails to deposit the amounts within the stipulated period respondent will be at liberty to pass appropriate orders on merits and in accordance with law based on the available material and

proceed to recover the amount from the petitioner.

6. Writ Petitions stands disposed of with the above observations. No costs. Consequently, connected miscellaneous petitions are closed.

16.04.2024.

Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order
kpr

Copy To:

The Assistant Commissioner (ST) (Circle)
Tuticoin-III Assessment Circle
Commercial Tax Buildings
Tuticorin

C.SARAVANAN, J.

kpr

W.P.(MD)Nos.21976 and 21977 of 2022

16.04.2024