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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.08.2024

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THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

W.P.(MD)No.20737 of 2024
and
W.M.P.(MD)Nos.17576 & 17577 of 2024

Tvl.Milan Footwear,
Rep.by its proprietor M.Mohamed Imthiyaz,
27, Mariamman Kovil Street,
Cumbum,
Theni District-625516. ... Petitioner

Vs.

The State Tax Officer,
Uthamapalayam Assessment Circle,
Uthamapalayam-625533 ...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records of the respondent in GSTIN:33ANJPM4692C1ZO/2018-19 dated 27.04.2024 and quash the same as illegal, arbitrary and without jurisdiction.

For Petitioner	:	Mr.A.Chandrasekaran
For Respondent	:	Mr.J.K.Jayaselan, Government Advocate

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ORDER

The present Writ Petition is filed challenging the impugned order issued by the respondent in GSTIN:33ANJPM4692C1ZO/2018-19 dated 27.04.2024 on the premise that the impugned order proceeds to levy tax on the sales of the vegetables, which, according to the petitioner, is exempted.

2.The petitioner is dealer in footwear and vegetables. It is submitted that the petitioner had, in response to the GST ASMT-10 notice, has submitted his reply explaining that the above turnover represents supply of vegetables, which is exempt. Thereafter, notices were issued in DRC-01A. Since the petitioner was unwell, he was unable to respond to the above notices. Thereafter, the impugned order has been passed on the premise that the petitioner's claim on the supply of the vegetables, is not supported by documentary evidence.

3.The learned counsel for the petitioner would submit that it was only because of the ill-health, that he was not able to attend personal hearing and respond to the notices in DRC-01A and would submit that now he has affidavits of the vegetables vendors, which would clearly demonstrate that the supply only relate to vegetables and thus exempt.

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4.The learned Government Advocate for the respondent would on perusal of the affidavit submit that its requires verification by the adjudicating authority.

5.In view thereof, considering the fact that the petitioner was unable to appear for the personal hearing and responded to the notices, because of his medical condition, this Court is inclined to remand the matter back to the respondent authority for re-doing the assessment. The petitioner shall appear before the respondent authority with relevant documentary evidence on 24.09.2024 at 11.00 am., in the office of the respondent, failing which, the impugned order would stand automatically restored.

6.Accordingly, the Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

30.08.2024

Index : Yes / No
Internet : Yes/ No
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To
The State Tax Officer,
Uthamapalayam Assessment Circle,
Uthamapalayam-625533

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MOHAMMED SHAFFIQ, J.

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