BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.07.2024

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THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD)No.23948 of 2023
and
W.M.P.(MD)Nos.20125 and 20126 of 2023 and 12357 of 2024

Tvl. Shree Vinayaga Engineering Works,
Rep. by its Proprietor G.Sathasivan,
1/252, Vinayaga Complex,
Main Road,
Avaraikulam, Tirunelveli - 627 133. ... Petitioner

Vs.

The State Tax Officer,
Nanguneri Assessment Circle,
Nanguneri. ... Respondent

Prayer:- Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the impugned assessment order on the file of respondent vide GSTIN: 33BCLPS3620L1ZD/2020-21, dated 12.05.2023, quash the same as illegal and devoid of merits and direct the respondent to redo the assessment proceedings for the year 2020-2021.

For Petitioner : Mr.Raja.Karthikeyan

For Respondent : Mr.J.K.Jayaselan
Government Advocate

ORDER

The petitioner is before this Court against the impugned order dated 12.05.2023 passed for the Assessment Year 2020-2021.

2. By the impugned order, the demand proposed in the notice in Form GST DRC – 01, dated 09.01.2023, has been confirmed, as the petitioner has failed to file the reply in time.

3. The learned counsel for the petitioner would submit that the petitioner may be given one opportunity to explain the case, as the petitioner has a fair case on merits.

4. On the other hand, the learned Government Advocate for the respondent would submit that the Writ Petition is devoid or merits in the light of 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 44. It is submitted that the appeal before the Appellate Commissioner will also be time barred in terms of the decision of the Hon'ble Supreme Court in

M/s.Singh Enterprises vs. **Commissioner of Central Excise, Jamshedpur and others**, (2008) 3 SCC 70. It is therefore submitted that this Writ Petition is liable to be dismissed.

5. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Government Advocate for the respondent.

6. Having considered the submissions made by the learned counsel for the petitioner and the learned Government Advocate for the respondent, I am of the view that the petitioner can be given one opportunity to explain the case on merits subject to the petitioner depositing 25% of the disputed tax from the Electronic Cash Register, within a period of 30 days from the date of receipt of a copy of this order. The impugned order which stands quashed in this order shall be treated as Addendum to the show cause notice issued to the petitioner. Subject to the petitioner complying with the above requirements along with reply within a period of 30 days, the respondent shall proceed to pass fresh orders on merits and in accordance with law after hearing the petitioner. It is expected that fresh orders shall be passed within a period of three months from today.

7. In fine, this Writ Petition stands disposed of with the above observation. No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes/ No **01.07.2024**
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order

To

The State Tax Officer,
Nanguneri Assessment Circle,
Nanguneri.

C.SARAVANAN, J.

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W.P.(MD) No.23948 of 2023

01.07.2024