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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **09.01.2025**

CORAM:

THE HONOURABLE MR.JUSTICE **K.KUMARESH BABU**

W.P.(MD) No.842 of 2025
and
W.M.P.(MD) No.535 of 2025

M/S. Hotel Subhalakshmi Palace,
represented by its Proprietor
S.Chandramohan ... Petitioner

/vs./

1.The Commercial Tax Officer (ST),
Karaikudi Assessment Circle,
Commercial Tax Building,
Karaikudi,
Sivagangai District.

2.The Appellate Deputy Commissioner (CT),
Commercial Taxex Building,
Madurai. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records on the file of the 1st Respondent in GSTIN 33AAQPC6171N4ZA/2018-19 dated 27/4/2024 and consequential rejection order dated 6/11/2024 issued by the 2nd respondent

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in Form GST APL-02 and to quash the both as cryptic, non-speaking, illegal , arbitrary, wholly without jurisdiction and direct the respondent to pass order afresh by considering the objections and records filed by the petitioner on 24.4.2024 after affording opportunity of personal hearing as contemplated under Section 75(4) of the TNGST Act, 2017 and as per the guidelines issued by the Commissioner of State Tax, Chennai in Circular No.8/2024 dated 29.08.2024.

For Petitioner : Mr.S.Karunakar

For Respondents : Mr.R.Suresh Kumar
Additional Government Pleader

ORDER

The challenge in this writ petition is to an order of assessment dated 27.04.2024 and the rejection of appeal filed by the petitioner on the ground of delay.

2. The learned counsel appearing for the petitioner would submit that an order of assessment was made on 27.04.2024, that too without affording an opportunity of hearing to the petitioner. DRC-01 notice was issued on 26.11.2023, in which no personal hearing date was given. The petitioner due to his medical ill-health was unable to file his reply to the same. However, without issuing any notice of personal hearing to the petitioner, the first respondent had

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passed the order of assessment, that too without any determination, which is also contrary to the provisions of TNGST Act, 2017. Hence, he had preferred an appeal, but however the same came to be rejected for belated filing. Hence, he had approached this Court by filing this writ petition.

3. A perusal of the order of assessment would indicate that only a show cause notice in DRC-01 had been issued on 26.11.2023 calling upon the petitioner to submit his objections within a period of 30 days. Thereafter, the order impugned had been passed on 27.04.2024. The order also do not indicate that an opportunity of personal hearing as mandated under Section 73 of the Act has been issued to the petitioner. A further reading of the same would also indicate that there has been no determination, but however had recorded that the petitioner had not appeared for personal hearing on the said date and time. When no personal hearing had been granted to the petitioner, the petitioner would not be able to appear before the first respondent. However, the order had proceeded to on the basis as if there has been a notice of personal hearing on the petitioner.

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4. In such event, the order impugned is liable to be set aside and is accordingly set aside and the case is remitted back to the first respondent to grant a reasonable opportunity of hearing to the petitioner and on the date to be fixed for hearing, the petitioner shall submit its written objections and relevant documents in support of its claim and thereafter, the first respondent shall pass appropriate orders on merits and in accordance with law by giving reasons for him coming to such conclusion as mandated under Section 73 of the Act.

5. The Writ Petition stands allowed, accordingly. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes / No
Internet : Yes / No
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09.01.2025

To

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K.KUMARESH BABU, J.

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