IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13..03..2023

Coram

The Honourable **DR.JUSTICE ANITA SUMANTH**

Writ Petition No.12897 of 2020
and
W.M.P.Nos.15948 & 15950 of 2020

K.Baskaran

..... Petitioner

-Versus-

The Assistant Commissioner (ST).
Thirumullaivoyal Assessment Circle.

.... Respondent

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the impugned proceedings in GSTIN33AAKPK6799C1ZG/2017-18 dated 24.01.2020 on the file of the respondent herein and to quash the same.

For Petitioner : *Mr.Adithya Reddy*

For Respondents : *Mr.T.N.C. Kaushik,*
Addl. Government Pleader

ORDER

Heard Mr.Adithya Reddy, learned counsel for the petitioner and Mr.T.N.C.Kaushik, learned Additional Government Pleader for the respondent.

2. Challenge is to the proceedings of the respondent dated 24.01.20220 passed in terms of the Central Goods and Services Tax Act, 2017 (in short, 'the Act') . Though the impugned proceedings have been concluded without affording an opportunity of hearing to the petitioner, no fault can be attributed to the officers.

3. A notice dated 08.11.2019 was issued to the petitioner to which there was no response forthcoming. Thus passing of the impugned order without reference to the petitioner is found to be in order. However, there are other legal defects.

4. The impugned order levies interest under Section 50 as well as penalty under Section 73(9) of the Act, over and above, reversal of Input Tax Credit (ITC). Admittedly, there was no proposal in the pre-assessment notice either for levy of interest or penalty. To this extent the impugned order has travelled beyond the scope of the show cause notice.

5. Thus, to that extent, I set aside the impugned order subject to the petitioner appearing before the respondent with a response to the show cause notice as well as to the levy of interest under Section 50 and

penalty under Section 73(9) of the Act as contained in the impugned order on Thursday, 23rd March, 2023 at 10.30 a.m. without expecting any further notice in this regard.

6. After hearing and considering the reply filed and records, if any produced, the respondents shall pass an order within a period of two weeks from 23.03.2023. It is made clear that if the petitioner does not avail the opportunity as extended under this order, then challenge to the impugned order will fail and the impugned order will stand revived without further reference to the petitioner.

7. In the result, this writ petition stands allowed to the extended indicated above. No costs. Consequently, connected miscellaneous petitions stand closed.

13..03..2023

Index : yes / no
Neutral Citation : yes / no
kmk

Note: Issue order copy on 15.03.2023.

To

1.The Assistant Commissioner (ST).
Thirumullaivoyal Assessment Circle.

DR. ANITA SUMANTH.J.,

kmk

W.P.No.12897 of 2020

13..03..2023