IN THE HIGHCOURT OF JUDICATURE AT MADRAS

DATED : 05.11.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.25567 of 2024
and
W.M.P.Nos.27914 and 27915 of 2024

Salem Steel Trading Company,
Represented by its proprietor,
A.Hithayathullaha,
17/14F, Suramangalam Main Road,
Three Roads, Salem 636 006. ... Petitioner

Vs.

The State Tax Officer (ST),
Arisipalayam Circle,
Station: Room No.418/Fourth Floor,
Integrated Commercial Taxes Building,
Pitchards Road, Salem 600 008.
... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for recordson the files of the respondent herein in GSTIN/33ABHPH6958G1ZJ/2017-18 dated 26.12.2023.

For Petitioner	:	Mr.M.Rajkumar
For Respondents	:	Ms.Amrita Dinakaran Government Advocate

ORDER

The present writ petition is filed challenging the impugned order of assessment dated 26.12.2023 for the assessment year 2017-18.

2. The petitioner is a registered dealer under GST act. It is submitted by the learned counsel for the petitioner that the petitioner had filed the returns and discharged appropriate taxes during the relevant period. The returns filed by the petitioner was scrutinised and it was found that the petitioner has reported an inward supply liable for reverse payment and the same was claimed in GSTR-3B and adjusted against the output dues. On verification it was found by the RCM that it was not paid. Consequently, an intimation in DRC01A was issued to which the petitioner filed its reply on 07.09.2023 wherein it was submitted that there was a manual mistake of entry in the reverse charge liability column instead of Input tax credit column. This was followed by a notice in DRC01 which was also responded to by the learned counsel for the petitioner vide reply dated 12.12.2023. However, the same was rejected and the impugned order

came to be passed on the premise that the reply did not include the invoices in support of the claim and the subsequent payment made by the supplier is not furnished along with their reply.

3. The limited issue that arises for consideration in the impugned order is the alleged mismatch between ITC claimed on inward RCM supplies in GSTR-3B and Reverse charge liability declared in GSTR-3B. It is submitted by the learned counsel for the petitioner that if the petitioner is provided with an opportunity, he would be able to explain the alleged discrepancies between ITC claimed on inward RCM supplies in GSTR-3B and Reverse charge liability declared in GSTR-3B.

4. The learned counsel for the petitioner would place reliance upon the recent judgment of this Court in the case of **M/s.K.Balakrishnan, Balu Cables vs. O/o. the Assistant Commissioner of GST & Central Excise in W.P.(MD)No.11924 of 2024 dated 10.06.2024,** to submit that this court has remanded the matter back in similar circumstances subject to payment of 25% of the disputed taxes.

5. It was further submitted that the petitioner is ready and willing to pay 25% of the disputed tax and that he may be granted one final opportunity before the adjudicating authority to put forth their objections to the proposal, to which the learned Government Advocate appearing for the respondent does not have any serious objection.

6. In view thereof, the impugned order is set aside and the petitioner shall deposit 25% of the disputed tax within a period of four weeks from the date of receipt of a copy of this order. On complying with the above condition, the impugned order of assessment shall be treated as show cause notice and the petitioner shall submit its objections within a period of four (4) weeks from the date of receipt of a copy of this order along with supporting documents/material. If any such objections are filed, the same shall be considered by the respondent and orders shall be passed in accordance with law after affording a reasonable opportunity of hearing to the petitioner. If the above deposit is not paid or objections are not filed within the stipulated period, i.e., four weeks respectively from the date of receipt of a copy of this order, the impugned order of assessment shall stand revived.

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

05.11.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
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To

The State Tax Officer (ST),
Arisipalayam Circle,
Station: Room No.418/Fourth Floor,
Integrated Commercial Taxes Building,
Pitchards Road, Salem 600 008.

MOHAMMED SHAFFIQ, J.

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