IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.28856 of 2024 and
W.M.P.Nos.31467 and 31464 of 2024

Tvl.Sha Kamalchand Multanmal
Rep. by its authorised signatory,
Mrs K.Bhagialakshmi,
No.80B(A), Main Road,
SIPCOT,
Ranipet,
Pin – 632 403. ..Petitioner

Vs.

The Assistant Commissioner (ST) (FAC)
Ranipet Sipcot assessment circle,
Integrated Commercial Taxes,
Ward B
No.25, Opposite to Uzhavar Santhai
Railway Station Road,
Ranipet
PIN: 632 401. ..Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorarified Mandamus calling for the records of the Respondent in GSTIN: 33AAGPD3012M1Z6/2017-2018 dated 30.03.2024 and consequential rejection order in Reference No.ZD330924009812G dated 02.09.2024 and quash the same and consequently direct the respondent to give an opportunity of personal hearing.

For Petitioner : Mr.M.Desingu
For Respondent : Ms.Amrita Dinakaran
Government Advocate.

ORDER

The present writ petition is filed challenging the impugned order passed by the respondent dated 30.03.2024 relating to the assessment year 2017-2018.

2. The petitioner is engaged in the business of trading in tanning chemicals and chemical fertilizers and is a registered dealer under the Goods and Services Act, 2017. During the relevant period, the petitioner filed its return and paid appropriate tax. However, during verification of monthly returns of the petitioner, eight defects were noticed. Subsequently, a notice in DRC-01A was issued on 14.09.2023, followed by reminders on 20.03.2024, 25.03.2024 and 26.03.2024. Pursuant to the reply filed by the petitioner, all the defects were dropped except for discrepancy No.2, which relates to a best judgment assessment made on the basis of an alleged omission inferred from discrepancy in the opening stock as on 30.06.2017. Though the objections were filed by the petitioner, they were rejected on the premise that the they were not satisfactory and that proper reconciliation has not been made.

3. The learned counsel for the petitioner would request that they may be granted one final opportunity to explain the alleged discrepancy as the opportunity that was granted was not reasonable.

4. The learned counsel for the petitioner would then 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***. It is submitted that the petitioner is ready and willing to pay 25% of the disputed tax and that they may be granted one final opportunity before the adjudicating authority to put forth their objections to the proposal. It is further submitted that there is bank attachment and the same may be lifted, to which, the learned Government Advocate appearing for the respondent does not have any serious objection.

5. In view thereof, the impugned order is set aside and the petitioner shall deposit 25% of the disputed tax within a period of two (2) 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., two weeks and four weeks respectively from the date of receipt of a copy of this order, the impugned order of assessment shall stand restored. The bank attachment shall be lifted forthwith.

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

05.11.2024

Speaking (or) Non Speaking Order
Index:Yes/No
Neutral Citation: Yes/No
shk

To

The Assistant Commissioner (ST) (FAC)
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MOHAMMED SHAFFIQ, J.

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