IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.30673 of 2024 and
W.M.P.No.33291 of 2024

M/s.Nizam Biriyani & Caterings
Represented by its Sole Proprietor
Mrs.Badrunisa
No.19, West Madha Church Street,
Chennai 600 013. ..Petitioner

Vs.

1.The State Tax Officer,
Group – IV, intelligence – I,
Chennai 600 006.

2.The State Tax Officer,
Group – XI, Intelligence – I,
Chennai 600 006. ..Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorari call for the records pertaining to the impugned DRC-07 Order dated 30.08.2024 bearing reference No. ZD330824297329V, passed by the first Respondent and quash the same.

For Petitioner : Mr.Hari Radhakrishnan

For Respondent : Mr.C.Harsha Raj,
Additional Government Pleader

ORDER

The writ petition is filed challenging the impugned order dated 30.08.2024 on the limited ground that though the petitioner had filed its reply in response to DRC-01 dated 11.05.2024 vide letter dated 05.08.2024, which was uploaded on 12.08.2024, the impugned order dated 30.08.2024 does not even make reference to the said reply, which would show that there is gross non-application of mind to the material on record.

2. The learned counsel for the respondents would submit that the reply dated 05.08.2024 is merely a repetition of the reply filed by the petitioner in response to the notice in DRC-01 and thus no prejudice is caused to the petitioner.

3. To the contrary, the learned counsel for the petitioner would submit that even a bare perusal of the replies dated 25.03.2024 and 05.08.2024 would reveal that there is a difference between what is set out in the two replies. In any view, it

is submitted by the learned counsel for the petitioner that failure to even refer to the reply dated 05.08.2024 in the impugned order would show non-application of mind. Even if the Assessing Authority was of the view that the subsequent reply was merely a repetition, the Assessing Authority could have possibly indicated that this was only a reiteration of the earlier reply, failure to do so would suggest non-application of mind.

4. This Court finds merit in the submission made by the learned counsel for the petitioner. The impugned order is set aside. The petitioner is granted liberty to treat the impugned order as a Show Cause Notice. The petitioner is directed to file its objection within a period of two weeks from the date of receipt of a copy of this order. The respondents shall redo the assessment thereafter, after granting a reasonable opportunity of hearing to the petitioner in accordance with law.

5. In view of the above, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

05.11.2024

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

shk

To

1.The State Tax Officer,
Group – IV, intelligence – I,
Chennai 600 006.

2.The State Tax Officer,
Group – XI, Intelligence – I,
Chennai 600 006.

MOHAMMED SHAFFIQ, J.

shk

W.P.No.30673 of 2024 and
W.M.P.No.33291 of 2024

05.11.2024