IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.11.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.Nos.31275 and 31278 of 2024
and
W.M.P.Nos.33908 and 33910 of 2024

M/s.VSR Food Products
Rep. by its Partner Sri.M.C.Vijayan,
S.F.No.73/1C2, 74/2,
BRG Madhepalli Village and Post,
Bargur Taluk, Krishnagiri 635 104.s ... Petitioner in both petitions

Vs.

1.The Deputy State Tax Officer -I,
Krishnagiri -11.

2.The Assistant Commissioner (ST),
Krishnagiri -II Circle,
Krishnagiri. ..Respondents

COMMON PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorari to call for the records of the first respondent and second respondent in their proceeding in GSTIN:33AAQFV9515M1ZF/2018-19 and quash the proceeding dated 26.12.2023 and 05.03.2024 respectively passed therein.

For Petitioner in both petitions	: Mr.B.Raveendran
For Respondents in both petitions	: Ms.Amrita Poonkodi Dinakaran, Government Advocate.

COMMON ORDER

The writ petitions are filed challenging the impugned orders passed by the first and second respondents dated 26.12.2023 and 05.03.2024 relating to the assessment year 2018-19.

2. It is submitted by the learned counsel for the petitioner that the petitioner is a dealer in food products and is registered under the Goods and Services Tax Act, 2017. During the relevant period viz., 2018-19, the petitioner filed its returns and paid the appropriate taxes. However, during the scrutiny of the petitioner's monthly return, it was found that there were certain discrepancies between GSTR-2A and GSTR-3B.

3. It is submitted by the learned counsel for the petitioner that in respect of assessment order dated 26.12.2023, an intimation in DRC-01A was issued on

11.09.2023, followed by a notice in DRC-01 on 20.10.2023. Further, personal hearing was offered on 20.11.2023. Insofar as the assessment order dated 05.03.2024 is concerned, an intimation in DRC-01 was issued on 26.01.2024. Further, personal hearing was offered on 26.02.2024. However, the petitioner had neither filed its reply nor availed the opportunity for a personal hearing. Hence, the impugned order came to be passed, confirming the proposal.

4. It is submitted by the learned counsel for the petitioner that neither the show cause notices nor the impugned order of assessment has been served on the petitioner by tender or sending it by RPAD, instead it had been uploaded in the GST Portal, thereby, the petitioner was unaware of the initiated proceedings and was thus unable to participate in the adjudication proceedings.

5. It is submitted by the learned counsel for the petitioner that both the assessment orders dated 26.12.2023 and 05.03.2024 pertains to the same assessment year viz., 2018-19 and deals with the same defects viz., mismatch between GSTR-2A and GSTR-3. It is also submitted by the learned counsel for the petitioner that though the issue is common in respect of both the assessment

orders, there is a variation in the interest and penalty. It is submitted by the learned counsel for the petitioner that if the petitioner is provided with an opportunity, they would be able to explain the alleged discrepancies. 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,*** to submit that this court has remanded the matter back in similar circumstances subject to payment of 25% of the disputed taxes.

6. It was further 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, to which the learned Government Advocate appearing for the respondents does not have any serious objection.

7. In view thereof, the impugned orders dated 26.12.2023 and 05.03.2024 are set aside and the petitioner shall deposit 25% of the disputed tax demand vide impugned assessment order dated 26.12.2023 i.e., Rs.3,50,326/- within a period of

four weeks from the date of receipt of a copy of this order. The impugned orders of assessment shall be treated as show cause notice and the petitioner shall submit its objections within a period of four 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 respondents 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 from the date of receipt of a copy of this order, the impugned orders of assessment shall stand restored.

8. Accordingly, the writ petitions are disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

12.11.2024

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

MOHAMMED SHAFFIQ, J.

shk

To

1.The Deputy State Tax Officer -I,
Krishnagiri -11.

2.The Assistant Commissioner (ST),
Krishnagiri -II Circle,
Krishnagiri.

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