IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.31622 of 2024 and
W.M.P.Nos.34374, 34375 and 34376 of 2024

Tvl. Sri Krishna Modern Rice Mill,
Rep. by its Proprietor G.Krishnamoorthy,
Tirukoilur Assessment Circle,
No.47/1B, Kallakurichi Main Road,
Kezha Thazhanur, Tirukoilur,
Villupuram, Tamil Nadu 605 757. ..Petitioner

Vs.

1.The State Tax Officer (INT),
Inspection – IV,
Cuddalore.

2.The State Tax Officer,
Tirukoilur.

3.Branch Manager,
ICICI Bank Limited,
No.47/1B, Kallakurichi Main Road,
Kelathalanur, Tirukoilur. ..Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorari to call for the records of first Respondent's order dated 05.12.2023 in GSTN:33AOGPK7995C1ZR /2022-2023 and second Respondent's consequential Form GST DRC-13 dated 17.05.2024 and to quash the same.

For Petitioner : Mr.Adithya Reddy

For Respondents : Mr.T.N.C Kaushik,
Additional Government Pleader for R1 and R2.

ORDER

The present writ petition is filed challenging the impugned order passed by the first respondent dated 05.12.2023 relating to the assessment year 2022-2023.

2. The petitioner is engaged in the business of Rice Trading and is a registered dealer under the Goods and Services Tax Act, 2017. During the relevant period viz., 2022-2023, the petitioner had filed its return and paid appropriate taxes. The petitioner's place of business was visited by the Vellore Intelligence Wing Officers on 19.04.2023. During the course of inspection, it was found that there was a mismatch between GSTR-3B and GSTR-2A. Subsequently, notices were issued in DRC-01 through online on 04.09.2023, followed by reminders on 27.09.2023 and 20.10.2023. However, the petitioner had neither filed its reply nor

paid the tax amount. Hence, the impugned order came to be passed.

3. The impugned order is challenged on the premise that the notices and orders were uploaded under the "view additional notices and orders" tab on the GST Portal, thereby, the petitioner was unaware of the initiated proceedings and thus unable to participate in the adjudication proceedings.

4. The limited issue that arises for consideration in the impugned order is the alleged mismatch between GSTR-3B and GSTR-2A. 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 GSTR-3B and GSTR-2A.

5. 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***. 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 Additional Government Pleader appearing for the respondents 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 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.

7. Accordingly, the Writ Petition stands disposed of. There shall be no order

as to costs. Consequently, connected miscellaneous petitions are closed.

06.11.2024

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

MOHAMMED SHAFFIQ, J.

shk

To

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Cuddalore.

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