IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.31931 of 2024 and
W.M.P.Nos.34679 and 34680 of 2024

Tvl.S.Kanakaraju Chetty Son
Represented by its Partner Sunderarajan
Kanakaraju)
807, Raja Street,
Coimbatore 641 001. ..Petitioner

Vs.

The Deputy State Tax Officer – (ST)
R.G.Street Assessment Circle,
Coimbatore 641 018. ..Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorari calling for the records relating to the impugned order bearing GSTIN 33AAMFS7878J1ZE/2017-2018 dated 17.10.2023 passed by the Respondent and quash the same as the same being arbitrary, passed in violation of the principles of natural justice.

For Petitioner : M/s.K.Aarthy

For Respondent : Mr.G.Nanmaran,
Special Government Pleader

ORDER

The present writ petition is filed challenging the impugned order passed by the respondent dated 17.10.2024 relating to the assessment year 2017-18.

2. The petitioner is engaged in the business of manufacturing of glasses. The petitioner is a registered dealer under Goods and Services Act. During the relevant period, the petitioner had filed its return and paid appropriate taxes. While scrutinizing the petitioner's return, it was found that there were certain discrepancies between GSTR-1 and GSTR-3B. Subsequently, notice was issued in DRC-01A to the petitioner on 21.08.2023 through GST Portal, followed by a Show Cause Notice on 22.09.2023. 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 neither the show cause notices nor the impugned order of assessment has been served by tendering to the petitioner or by registered post, instead it was uploaded in the common portal. It was further submitted that the petitioner was unable to access the common portal 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-1 and GSTR-3B. 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 between GSTR-1 and GSTR-3B.

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 Special Government Pleader 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 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

To

The Deputy State Tax Officer – (ST)
R.G.Street Assessment Circle,
Coimbatore 641 018.

MOHAMMED SHAFFIQ, J.

shk

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