IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.32428 of 2024
and
W.M.P. Nos.35216 and 35220 of 2024

D.P.New Life Health Care Private Limited,
Rep. By its Director,
Dilip Balaj,
No.66/2, 5th Street, Narasinghapuram Road,
Guindy, Chennai-600 032. ..Petitioner

Vs.

Deputy State Tax Officer-I,
Chindradripet Assessment Circle,
PAPJM Buildings,
No.1, Greams Road, Chennai-600 006. ..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 of the Respondent passed in GSTIN/33AADCD6758J1ZF/2018-19 dated 29.04.2024 and quash the same.

For Petitioner : Mr.N.Murali

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

ORDER

The present writ petition is filed challenging the impugned order passed by the respondent dated 29.04.2024 relating to the assessment year 2018-19.

2. The petitioner is engaged in import and sale of baby health care products and is a registered dealer under the Goods and Services Tax Act. During the relevant period, the petitioner had filed its return and paid appropriate taxes. However, during the scrutiny of the petitioner's monthly returns, the following discrepancies were noticed:

i) Under declaration of output tax;

ii) Excess claim of Input Tax Credit (ITC).

2.1. Subsequently, a notice was issued in DRC-01 to the petitioner on 27.12.2023, followed by reminders on 30.01.2024, 23.02.2024 and 07.03.2024 for the year 2018-19 and thereafter the impugned order came to be passed.

3. It is submitted by the learned counsel for the petitioner that neither the show cause notice 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. It is further 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 viz., under declaration of output tax and excess claim of input tax credit.

4. 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*** to submit that this court has remanded the matter back in similar circumstances subject to payment of 25% of the disputed taxes. It is further submitted by the learned counsel for the petitioner that they have already remitted the entire disputed tax and they may be granted an opportunity before the adjudicating authority to put forth their objections to the proposal.

5. Taking into account the peculiar facts of the case, wherein, the petitioner has already remitted the entire disputed taxes, this Court is of the view that the petitioner may be granted one final opportunity to put forth his objections, which was not objected to by the learned Additional Government Pleader for the respondent.

6. The Respondent may verify the above statement made by the learned counsel for the petitioner that the entire disputed tax has been remitted already. If the statement made by the learned counsel for the petitioner regarding the payment of 25% or more of the disputed taxes is incorrect, the respondent authority shall intimate the same to the petitioner within a period of one week from the date of receipt of a copy of this order, the petitioner shall deposit 25% of disputed taxes within a week from the date of such intimation. Subject to verification of payment of 25% or more of the taxes or on payment of 25% of disputed taxes, the impugned order of the 29.04.2024 will stand set-aside and the petitioner shall treat the impugned order as show cause notice and the petitioner shall filed their objections within a period of two (2) weeks from the date of receipt of a copy of this order. If any such objections are filed within the stipulated period, the respondent shall consider the same and pass appropriate orders in accordance with law after affording the petitioner a reasonable opportunity of hearing. If objections are not filed within the stipulated period, i.e., two weeks from the date of receipt of a copy of this order or if deposit of 25% is not made within the stipulated period, if not already paid, 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.

04.11.2024

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

To:
Deputy State Tax Officer-I,
Chindradripet Assessment Circle,
PAPJM Buildings,
No.1, Greams Road, Chennai-600 006.

MOHAMMED SHAFFIQ, J.

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W.P.No.32428 of 2024

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