IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.31927 of 2024 and
W.M.P.Nos.34675 and 34674 of 2024

Tvl.Sri Sai Godown
Represented by its Proprietor Kurugondala Ramakrishna
98/164, Portuguese Church Street, Sevenwells,
Chennai, Tamil Nadu, 600 001. ..Petitioner

Vs.

Assistant Commissioner (ST),
Muthialpet Assessment Circle
Integrated Commercial Taxes Office Complex
Chennai 600 003. ..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: 33AACPR5322G1Z0/2018-2019 dated 19.01.2024 issued by the Respondent and quash the same as the same being arbitrary, passed in violation of the principles of natural justice and thus render justice.

For Petitioner : M/s.K.Aarthy

For Respondent : Mr.V.Prashanth Kiran,
Government Advocate.

ORDER

The present writ petition is filed challenging the impugned order passed by the respondent dated 19.01.2024 relating to the assessment year 2018-19.

2. The petitioner is engaged in businesses of renting and leasing of storage spaces and providing warehouse service and they are registered under Goods and Services Act. During the relevant period, the petitioner had filed its return and paid appropriate taxes. However, during the course of scrutiny of the petitioner's return for the tax period 2018-19, it was found that there were discrepancies between GSTR-3B and Form 26AS and between GSTR-3B and GSTR-9/9C. Subsequently, a Show Cause Notice was issued in DRC-01 to the petitioner on 11.08.2023. 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 notice was uploaded under the "view additional notices and orders" column of the GST Portal, thereby, the petitioner was unaware of the proceedings initiated and was 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 Form 26AS and between GSTR-3B and GSTR-9/9C. It is submitted by the learned counsel for the petitioner that the alleged discrepancies are solely due to certain accounting errors and that if the petitioner is provided with an opportunity, they would be able to explain the alleged discrepancies between GSTR-3B and Form 26AS and between GSTR-3B and GSTR-9/9C.

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 Government Advocate 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

MOHAMMED SHAFFIQ, J.

shk

To

Assistant Commissioner (ST),
Muthialpet Assessment Circle
Integrated Commercial Taxes Office Complex
Chennai 600 003.

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