IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.32132 of 2024
and
W.M.P. Nos.34897 and 34899 of 2024

Rockib Hussian
Prop. Of M/s.Zuli Trade Links,
Old No.45, New No.7, 5th Avenue,
Harrington Road, Chennai-600 031. ... Petitioner

Vs.

The Deputy State Tax Officer (ST-1),
Valluvarkotam Assessment Circle,
No.10, Palaniappa Maligai 4th Floor,
Greams Road, Chennai-600 006. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records in impugned proceeding in GSTIN/33BCXPR777K2ZH/2017-18 dated 30.12.2023 on the file of the respondent herein and quash the same and pass suitable order.

For Petitioner : Mr.B.Manoharan

For Respondent : Mr.G.Nanmaran
Special Government Pleader

ORDER

The present writ petition is filed challenging the impugned order dated 30.12.2023 relating to the assessment year 2017-18.

2. The petitioner is an entrepreneur undertaking small interior works and registered under Goods and Services Act, 2017. During the relevant period, the petitioner had filed its return and paid appropriate taxes. On verification of the monthly returns filed by the petitioner for the period 2017-18, the following discrepancies were noticed:

i) Mismatch in turnover between GSTR-1 and GSTR-3B;

ii) Mismatch in ITC claimed between GSTR-3B and GSTR-2A.

2.1. Subsequently, notice was issued in DRC-01 to the petitioner dated 15.09.2023 through GST Portal, followed by reminders dated 09.11.2023 and 27.11.2023. The petitioner vide letter dated 14.10.2023 requested time and had not submitted any reply thereafter. Hence, the impugned order came to be passed confirming the proposal.

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3. The impugned order is challenged on the premise that neither the show cause notices nor the impugned order of assessment have 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 was unable to participate in the adjudication proceedings.

4. 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***. 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. It is further submitted that subsequent to the passing of the impugned order, certain monies have also been recovered from the petitioner by way of Garnishee proceedings and his only request is that the same may be adjusted towards 25% of the disputed tax. The learned Special Government Pleader for the Respondent would

submit that he has no instructions with regard to the same.

5. The Respondent may verify the above statement made by the learned counsel for the petitioner that certain monies have been recovered 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 dated 30.12.2023 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.

6. Accordingly, the Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

12.11.2024

Speaking (or) Non Speaking Order
Index : Yes/ No
Neutral Citation: Yes/No
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To:
The Deputy State Tax Officer (ST-1),
Valluvarkotam Assessment Circle,
No.10, Palaniappa Maligai 4th Floor,
Greams Road, Chennai-600 006.

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MOHAMMED SHAFFIQ, J.

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