IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.33087 of 2024
and
W.M.P.Nos.35843 and 35844 of 2024

Tvl.V.P.Janarthanan,
(GSTIN:33AEZPJ4578F1ZZ)
No.12/4, Thachar Street,
Kurinjipadi,
Cuddalore 607 302. ..Petitioner

Vs.

The State Tax Officer (Intelligence),
Inspection -1,
Cuddalore. ..Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorari calling for the Respondents order dated 11.06.2024 in GSTIN 33AEZPJF1Z/2022-23 and quash the same.

For Petitioner : M/s.Janani

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

ORDER

The present writ petition is filed challenging the impugned order passed by the respondent dated 11.06.2024 relating to the assessment year 2022-23.

2. The petitioner is a Works Contractor and is a registered tax payer under the Goods and Services Act, 2017. During the relevant period, the petitioner filed its return and paid the appropriate taxes. While so, the petitioner's place of business was inspected by the Intelligence Wing Official on 11.09.2023. During the course of inspection, the following discrepancies were noticed viz.,

i. Sales suppression

ii. Belated Payment of Tax

iii.Incorrect rate of tax.

Subsequently, a notice was issued to the petitioner in Form DRC-01A on 08.12.2023, followed by a Show Cause Notice in Form DRC-01 on 25.01.2023. Further, personal hearing was offered on 15.02.2024, followed by a reminder dated 28.02.2024. Reply was filed by the petitioner on 15.02.2024. Though the reply was filed by the petitioner, they were rejected on the premise that the petitioner did not submitted the relevant invoices to prove that contract receipts are taxable at 12% in terms of Section 14 of the GST Act. Hence, the impugned order came to be passed, confirming the proposal.

3. 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 taxes and that they 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.

4. In view thereof, the impugned order is set aside and the petitioner shall deposit 25% of the disputed tax within a period of four (4) 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., four weeks and four weeks respectively from the date of receipt of a copy of this order, the impugned order of assessment shall stand restored.

5. Accordingly, the Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

13.11.2024

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

To

The State Tax Officer (Intelligence),
Inspection -1,
Cuddalore.

<u>MOHAMMED SHAFFIQ, J.</u>

shk

<u>W.P.No.33087 of 2024</u>
<u>and</u>
<u>W.M.P.Nos.35843 and 35844 of 2024</u>

13.11.2024