IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.32847 of 2024
and
W.M.P.Nos.35679 and 35680 of 2024

M/s Raja Hardwares,
Represented by its proprietor
Mr.Raja Chidambaram,
24/115 NA, Anna Nagar,
Krishnagiri Main Road,
Shoolagiri 635 117,
Krishnagiri District. ..Petitioner

Vs.

The Deputy State Tax Officer -1,
Hosur (North) II,
Hosur 635 109. ..Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorari calling for the connected records pertaining to the impugned proceedings of the Respondent herein made in GSTIN: 33ARLPC2913J1Z1 dated 27.08.2024 and quash the same as illegal.

For Petitioner : Mr.Manoharan S Sundaram

For Respondent : Mr.T.N.C.Kaushik,
Additional Government Pleader.

ORDER

The present writ petition is filed challenging the impugned order dated 27.08.2024 on the premise that the same is made in violation or principles of natural justice inasmuch as it is contrary to the provisions of the Goods and Services Tax Act, 2017 (hereinafter referred to as "GST Act").

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in the business of hardware and is a registered dealer under the GST Act. During the relevant period, the petitioner filed its return and paid the appropriate taxes. However, on examination of the information furnished by the petitioner in GSTR-3B, GSTR-01, GSTR-2A, E-Way Bills and other records available, it was found that there was an excess claim of Input Tax Credit. Subsequently, a Show Cause Notice was issued to the petitioner in Form DRC-01 on 21.05.2024. While so, the petitioner has now been served with an order of assessment in Form GST DRC-07.

3. It was further submitted by the learned counsel for the petitioner that neither the intimation in DRC-01 nor a notice for personal hearing was granted to

the petitioner. Though the impugned order makes a reference to DRC-01 and states that a personal hearing was granted, it does not even set out the date on which the said notice was issued, nor is there any reference to it in the preamble of the impugned order. The impugned order has been passed without even putting the petitioner on notice, thus suffers from violation of principles of natural justice and contrary to the provision of GST Act.

4. To a pointed question, the learned counsel for the respondent was unable to clarify whether DRC-01A or DRC-01, or for that matter a notice for personal hearing was issued.

5. In view thereof, the impugned order dated 27.08.2024 is set aside. The petitioner is granted liberty to treat the impugned order as a Show Cause Notice. The petitioner is directed to file its objection within a period of two weeks from the date of receipt of a copy of this order. The respondent shall thereafter redo the assessment, after granting the petitioner a reasonable opportunity of hearing in accordance with law.

6. Accordingly, the writ petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

11.11.2024

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

To
The Deputy State Tax Officer -1,
Hosur (North) II,
Hosur 635 109.

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

shk

<u>W.P.No.32847 of 2024</u>
<u>and</u>
<u>W.M.P.Nos.35679 and 35680 of 2024</u>

11.11.2024