IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.32932 of 2024
and
W.M.P. Nos.35748 and 35749 of 2024

Rais Enterprises
Represented by its Partner
Mrs.Razia Begum
No.25/1 and 25/2 Ground Floor,
Brindavan Street, West Mambalam,
Chennai-600 033. ... Petitioner

Vs.

The Deputy State Tax Officer-II,
(Formerly known as Deputy Commercial Tax Officer),
Ashok Nagar, Central-I, Chennai,
O/o. State Tax Officer, Ashok Nagar,
Assessment Circle, No.1, PAPJM Buildings (Annex),
Fifth 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 of the Respondent order in Reference No:ZD330824304657A/2019-20 dated 31.08.2024 and quash the same as arbitrary, illegal.

For Petitioner : Mr.K.Panneerselvam
for Mr.S.Ramanan

For Respondent : Mr.G.Nanmaran

Special Government Pleader

ORDER

The present writ petition is filed challenging the impugned order dated 29.08.2024, passed by the respondent on the premise that the same was made in violation of principles of natural justice.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in the business of trading of Groceries and Super market and is registered under the GST Act. During the relevant period of 2019-20, the petitioner has filed the returns and paid appropriate taxes. However, on scrutiny it is noticed that tax payers have received inward supply which is found to have not been declared.

3. It is submitted by the learned counsel for the petitioner that ASMT 10 notice was issued on 04.09.2023, followed by a notice in Form DRC01 on 17.05.2024. Thereafter, a reminders were also issued on 11.07.2024 and 19.07.2024. However, the petitioner had not responded to any of the above notices / intimation, the impugned order was thus passed confirming the proposal. It is submitted by the learned counsel for the petitioner that if the petitioner is provided with an opportunity, she would be able to explain the discrepancy.

4. The learned counsel for the petitioner would place reliance upon the recent judgment of this Court in the case of **Sree Manoj International Vs. Deputy State Tax Officer in W.P.No.10977 of 2024 dated 25.04.2024**, to submit that this court has remanded the matter back in similar circumstances subject to payment of 10% of the disputed taxes.

5. It was further submitted that the petitioner is ready and willing to pay 10% of the disputed tax and that she may be granted one final opportunity before the adjudicating authority to put forth their objections to the proposal, to which the learned Special Government Pleader appearing for the respondent does not have any serious objection.

6. In view thereof, the impugned order dated 29.08.2024 is set aside and the petitioner shall deposit 10% of the disputed tax within a period of four 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 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 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.

12.11.2024

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

To:
The Deputy State Tax Officer-II,
(Formerly known as Deputy Commercial Tax Officer),

Ashok Nagar, Central-I, Chennai,
O/o. State Tax Officer, Ashok Nagar,
Assessment Circle, No.1, PAPJM Buildings (Annex),
Fifth Floor, Greams Road, Chennai-600 006.

MOHAMMED SHAFFIQ, J.

mka

W.P. No.32932 of 2024

12.11.2024