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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :13.11.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.32923 of 2024
and
W.M.P.Nos.35738 and 35739 of 2024

Pradeepa Enterprises,
Represented by its Proprietrix Mr.M.Chitra
10/28, Tirumalai Street, Venkateswara Nagar,
Chennai 600 053. ... Petitioner

Vs.

The Deputy State Tax Officer-1
(Formerly known as Deputy Commercial Tax Officer)
Thirumullaivoyal: Avadi
Tiruvallur,
Room No.115, 1st Floor,
Integrated Commercial Taxes Building,
No.32, Elephant Gate Bridge Road, (Walltax Road),
Vepery, Chennai 600 003. ...Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records the Respondent in DRC -07 Reference Number ZD3307240706880/2020-21 dated 05.07.2024 and quash the same as arbitrary, illegal.

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For Petitioner : Mr.V.Vijayalakshmi

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

ORDER

The present writ petition is filed challenging the impugned order dated 05.07.2024, passed by the respondent on the premise that the same was made in violation of principles of natural justice.

2. The petitioner is engaged in the business of rendering civil works contract service to Greater Chennai Corporation and other State Government departments and is a registered dealer under the GST Act, 2017. During the relevant period viz., 2020-21, the petitioner filed its return and paid the appropriate taxes. However, during the scrutiny of the petitioner's return, it was found that there were certain discrepancies between GSTR-3B and Form 26AS and between GSTR-3B and GSTR9/9C. Subsequently, an intimation in ASMT-10 was issued to the petitioner on 04.07.2023, followed by a notice on 14.08.2023. Further, personal hearing was offered on 30.08.2023. However, the petitioner had neither filed its reply nor availed the opportunity of hearing. 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 has 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 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 **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 they may be granted one final opportunity before the adjudicating authority to put forth their objections to the proposal, to

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which the learned Additional Government Pleader appearing for the respondent does not have any serious objection.

6. In view thereof, the impugned order dated 05.07.2024 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.

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

The Deputy State Tax Officer-1
(Formerly known as Deputy Commercial Tax Officer)
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MOHAMMED SHAFFIQ, J.

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