IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.11.2024

Coram

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.33162 of 2024
and
W.M.P.Nos.35911 & 35912 of 2024

Tvl.Moti Private Limited
Represented by its Director
Mr.J.M.Haroon Rasheed,
No.1/130, Indira Nagar,
Thiruvallur High Road,
Bammadukulam, Red Hills,
Chennai - 600 052. ...Petitioner

Vs.

The State Tax Officer (ST)/Commercial Tax Officer,
Cholavaram Assessment Circle,
Integrated Commercial Taxes Building,
First Floor, Room No.108,
No.32, Elephant Gate Bridge Road,
Vepery, Chennai - 600 003. ... Respondent

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the impugned order passed in GSTIN:33AAKCM7363H1Z9/2019-20 dated 29.08.2024 on the file of respondent herein along with the consequential DRC-07 Order under Section 73, Ref No.ZD330824266413D dated 29.08.2024 on the file of the respondent herein and quash the same as illegal, arbitrary against the principle of natural justice and against the law.

For Petitioner : Mr.J.Poojesh

For Respondent : Mr.V.Prashanth Kiran
Government Advocate

ORDER

The present Writ Petition is filed challenging the impugned order dated 29.08.2024 passed by the respondent relating to the assessment year 2019-2020.

2. Mr.V.Prashanth Kiran, learned Government Advocate takes notice on behalf of the respondent. By consent of the parties, the main writ petition is taken up for disposal at the admission stage.

3. The petitioner is running service related business of renting of warehouse/depot and a registered dealer on the file of the respondent's office under Tamil Nadu Goods and Service Tax Act, 2017. During the relevant period, the petitioner had filed its return and paid appropriate taxes. On examination of the information furnished by the petitioner in the returns under various heads and also the information furnished in GSTR-01, GSTR-2A,

GSTR-3B, EWB and other records, it was found that the petitioner has not declared the correct tax liability. Subsequently, notice in Form GST DRC-01 dated 24.05.2024 was issued to the petitioner through GST Portal, followed by an opportunity of personal hearing and reminder-1 notice on 07.08.2024. However, the petitioner had neither filed its reply nor paid the tax amount. Hence, the impugned order came to be passed confirming the proposal.

4. The impugned order is challenged on the premise that the notices and orders were uploaded under the **"view additional notices and orders"** tab on the GST Portal, thereby, the petitioner was unaware of the initiated proceedings and thus unable to participate in the adjudication proceedings, thereby *exparte* order came to be passed by the respondent.

5. The limited issue that arises for consideration in the impugned order is the alleged excess claim of Input Tax Credit by the petitioner. It is submitted by the learned counsel for the petitioner that if the petitioner is provided with an opportunity, he would be able to explain its case.

6. 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**. It was further submitted that the petitioner is ready and willing to pay 10% of the disputed tax and that he 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.

7. 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 two (2) 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., two weeks and four weeks respectively from the date of receipt of a copy

of this order, the impugned order of assessment shall stand restored.

8. Accordingly, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

15.11.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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To
The State Tax Officer (ST)/Commercial Tax Officer,
Cholavaram Assessment Circle,
Integrated Commercial Taxes Building,
First Floor, Room No.108,
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Vepery, Chennai - 600 003.

MOHAMMED SHAFFIQ, J.
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