IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.32401 of 2024 and
W.M.P.Nos.35177 and 35178 of 2024

M/s Intercons,
represented by its proprietor,
Mr.D.Sankar Krishnan,
No.445/5, 7th Main Road,
Anna Nagar, Chennai 600 040. ..Petitioner

Vs.

The Deputy State Tax Officer -1,
Amaindakarai Assessment Circle,
No.F/150, 2nd Floor, 1st Avenue,
Anna Nagar East, Chennai 600 102. ..Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorari calling for the records of the respondent in his proceedings in GSTIN/33AVQPS0824BIZR/2018-19, quash the order dated 30.04.2024 passed therein.

For Petitioner : Mr.P.V.Sudhakar

For Respondent : Ms.Amrita Dinakaran,
Government Advocate.

ORDER

The present writ petition is filed challenging the impugned order passed by the respondent dated 30.04.2024 relating to the assessment year 2018-19.

2. The petitioner is an electrical works contractor and is a registered dealer under Goods and Services Act. During the relevant period, 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-1 and GSTR-3B. Subsequently, a Show Cause Notice in Form DRC-01A was issued to the petitioner on 13.07.2023, followed by a notice in DRC-01 dated 23.03.2023 and reminders dated 07.11.2023, 10.01.2024 and 12.04.2024. Further, personal hearing was offered on 11.01.2024 and 15.04.2024. However, the petitioner had neither filed its reply nor availed personal hearing. Hence, the impugned order came to be passed, confirming the proposal.

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. Yet another reason which is submitted by the learned counsel for the petitioner for not accessing the web portal was that the registration certificate was cancelled on 11.03.2022 and in view of the cancellation, there was no occasion for the petitioner to either check or access the web portal.

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 ***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 tax 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.

5. In view thereof, the impugned order is set aside and the petitioner shall deposit 25% 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.

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

05.11.2024

Speaking (or) Non Speaking Order
Index:Yes/No

Neutral Citation: Yes/No
shk

To

The Deputy State Tax Officer -1,
Amaindakarai Assessment Circle,
No.F/150, 2nd Floor, 1st Avenue,
Anna Nagar East, Chennai 600 102.

MOHAMMED SHAFFIQ, J.

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