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IN THE HIGHCOURT OF JUDICATURE AT MADRAS

DATED : 08.11.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.33100 of 2024
and
W.M.P.Nos.35855 and 35856 of 2024

Tvl.Tech Media,
Rep. by its partner
Mr.S.Shahul Hammed S/o. Late Syed Ibrahim,
No.26, Narasingapuram, Chindatripet,
Chennai 600 002.

... Petitioner

Vs.

The Deputy State Tax Officer-1,
Chintadripet Assessment Circle,
1st Floor, Greams Road, Annex Building,
Chennai 600 006. ... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records of the respondent order 19.02.2024 in GSTIN/33AAEFT2049L1Z4/2018-19 and to quash the same.

For Petitioner	:	Mr.J.Poojesh
For Respondents	:	Ms.Amrita Dinakaran Government Advocate

ORDER

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The present writ petition has been filed challenging the impugned proceeding dated 19.02.2024 passed by the respondent in GSTIN/33AAEFT2049L1Z4/2018-19, dated 19.02.2024 for the assessment year 2018-19, on the premise that the same is 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 wholesale and retail business and is registered under the GST Act. During the relevant period of 2018-19, the petitioner has filed the returns and paid appropriate taxes. However, on verification it was found that there was a discrepancy between GSTR 1 and GSTR 3B.

3. It is submitted by the learned Counsel for the petitioner that an intimation in DRC-01A dated 02.08.2023 was issued followed by a show cause notice dated 16.08.2023 with personal hearing dated 04.09.2023. This was followed by 3 reminders viz., 09.01.2024, 20.01.2024 and 05.02.2024. Neither the show cause notices nor the impugned order of assessment has been served on the petitioner by tender or sending it by RPAD, instead it had been uploaded under "view additional notices and orders" column of the GST Portal, thereby,

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the petitioner was unaware of the initiated proceedings and was thus unable to participate in the adjudication proceedings. 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 the alleged discrepancy between GSTR-1 and GSTR-3B.

4. The learned counsel for the petitioner would 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,*** to submit that this court has remanded the matter back in similar circumstances subject to payment of 25% of the disputed taxes.

5. It was further submitted that the petitioner is ready and willing to pay 25% 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.

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6. In view thereof, the impugned order dated 19.02.2024 is set aside and the petitioner shall deposit 25% 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 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.

08.11.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
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The Deputy State Tax Officer-1,
Chintadripet Assessment Circle,
1st Floor, Greams Road, Annex Building,
Chennai 600 006.

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MOHAMMED SHAFFIQ, J.

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