IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.11.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.33221 of 2024
and
W.M.P.No.36005 of 2024

M/s.JST Enterprises,

Represented by its Proprietor Mrs. Saraswathi Jayaraj,

SS 80B/2, SIDCO Industrial Estate,

Chennai-600 098. ...Petitioner

Vs.

1. The State Tax Officer (FAC),
   Pattaravakkam Assessment Circle,
   Integrated Commercial Taxes and Registration Department,
   Room No.415, 4th Floor,
   Nandanam, Chennai 35.

2. Deputy State Tax Officer I,
   Office of the State Tax Officer (ST),
   Pattaravakkam Assessment Circle,
   Commercial Tax Integrated and Registration,
   Room No 416, 4th Floor,
   Nandanam Chennai-35

3. The Assistant Commissioner (ST),
   Pattaravakkam Assessment Circle,
   Integrated Commercial Taxes and Registration Department,

Nandanam, Chennai-35. .... Respondents

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the Order dated 23.02.2024 passed by the First Respondent Ref. ZD3302241424104 and quash the same and further direct the Respondents to re-do the assessment afresh after providing an opportunity to personal hearing as per the provisions of the GST Act.

For Petitioner : Mr.J.Prajoy

For Respondents : Ms.Amritapoonkodi Dinakaran
Government Advocate

ORDER

The present Writ Petition is filed challenging the impugned order dated 23.02.2024 passed by the first respondent relating to the assessment year 2019-2020.

2. Ms.Amritapoonkodi Dinakaran, learned Government Advocate (Tax) takes notice on behalf of the respondents.

3. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

4. The petitioner is engaged in the manufacture and supply of scrap viz., 7202-Ferro-Alloys, 3606-Ferro-Cerium and other Pyrophoric Alloys in all forms etc., and a registered dealer under Goods and Services Act, 2017. During the relevant period, the petitioner had filed its return and paid appropriate taxes. While scrutinizing the petitioner's return, it was found that the petitioner had availed Input Tax Credit on the basis of alleged transactions with a non-existent dealer, namely Tvl.M.M.Traders.

4.1. Subsequently, notices in Form DRC-01A and DRC-01 were issued to the petitioner on 24.11.2023 through GST Portal, followed by personal hearing dated 26.12.2023. However, the petitioner had neither filed its reply nor appeared for personal hearing. Hence, the impugned order came to be passed.

5. The impugned order is challenged on the premise that the notices in Form DRC-01A and Form DRC-01 were issued on the same day i.e., on 24.11.2023 through the GST Portal, and proper show cause notice was not served on the petitioner. As the petitioner's consultant failed to communicate the said notices issued through the GST portal, the petitioner was 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 its case and participate in the proceedings.

6. 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***. 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 respondents does not have any serious objection.

7. In view thereof, the impugned order dated 23.02.2024 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 first 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 revived.

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

14.11.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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To
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MOHAMMED SHAFFIQ, J.

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