IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.32710 of 2024
and
W.M.P. Nos.35548 and 35549 of 2024

Sadhasivam Hemalatha ... Petitioner

Vs.

Deputy State Tax Officer,
Bhavani Assessment Circle,
No.158/1002, Pookadai Veedhi,
Bhavani, Erode,
Tamil Nadu-638 301. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records on the file of the Respondent and quash the impugned order under Section 73 of the Tamil Nadu Goods and Services Tax Act, 2017/ Central Goods and Services Tax Act, 2017 dated 25.04.2024 having Reference Number ZD3304241969053 along with summary of the order dated 25.04.2024 having Reference No. ZD3304241969053 (Impugned Order) GST DRC-07 along with its annexure passed by the Respondent for the FY 2018-19 in GSTIN 33ABHPH7942J1Z1.

For Petitioner : Mr.N.V.Narayanan

For Respondent : Ms.Amrita Dinakaran
Government Advocate

ORDER

The present Writ Petition is filed challenging the impugned order passed by the respondent dated 25.04.2024 relating to the assessment year 2018-19.

2. The petitioner is engaged in the business of trading of selling clothes. The petitioner is 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 there was alleged mismatch between GSTR-3B and GSTR-2A. Subsequently, a notice was issued in ASMT 10 on 03.08.2023, another notice was issued in DRC-01A to the petitioner on 03.10.2023 through GST Portal followed by a Show Cause Notice and reminders on 29.02.2024, 18.03.2024 and 20.03.2024. However, the petitioner had neither filed its reply nor paid the tax amount. Hence, the impugned order came to be passed.

3. The limited issue that arises for consideration in the impugned order is the alleged mismatch between GSTR-3B and GSTR-2A. 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 discrepancies between

GSTR-3B and GSTR-2A.

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***. 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.

5. In view thereof, the impugned order dated 25.04.2024 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 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.

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

04.11.2024

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

To:
Deputy State Tax Officer,
Bhavani Assessment Circle,
No.158/1002, Pookadai Veedhi,
Bhavani, Erode,
Tamil Nadu-638 301.

MOHAMMED SHAFFIQ, J.

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