IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.32667 of 2024
and
W.M.P. Nos.35503 and 35504 of 2024

Tvl.Dhanalakshmi Stores,
Represented by its Propreitor,
Mr.Narayanan,
No.1/217, Eswaran Koil Street,
Madipakkam, Chennai-600 091 ... Petitioner

Vs.

The Deputy State Tax Officer,
Madipakkam Assessment Circle,
Room No.233, 2nd Floor,
Integrated Commercial Taxes and Registered Department,
Anna Salai, Nandanam, Chennai-600 035. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records pertaining to the impugned order dated 23.12.2023 issued in Reference No.ZD3312231819980 by the Respondent and quash the same.

For Petitioner : Mr.Derrick Sam

For Respondent : Mr.G.Nanmaran
Special Government Pleader

ORDER

The present writ petition is filed challenging the impugned order passed by the first respondent dated 23.12.2023 relating to the assessment year 2017-18.

2. The petitioner is engaged in the business of grocery store. 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 mismatch between GSTR 3B and GSTR 2A. Subsequently, notice was issued in DRC-01A to the petitioner on 25.08.2023 through GST Portal, followed by a Show Cause Notice on 29.09.2023 and reminders on 01.11.2023, 20.11.2023 and 01.12.2023. However, the petitioner had neither filed its reply nor paid the tax amount. Hence, the impugned order came to be passed.

3. 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.

4. 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.

5. 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 Special Government Pleader appearing for the respondent does not have any serious objection.

6. In view thereof, the impugned order dated 23.12.2023 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.

7. 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:
The Deputy State Tax Officer,
Madipakkam Assessment Circle,
Room No.233, 2nd Floor,
Integrated Commercial Taxes and Registered Department,
Anna Salai, Nandanam, Chennai-600 035.

MOHAMMED SHAFFIQ, J.

mka

W.P. No.32667 of 2024

04.11.2024