IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.33574 of 2024
and
W.M.P. Nos.36364 and 36365 of 2024

Parvathi
Proprietor of Tvl.P.N.Krishna Iyer Trading Company,
No.280/1, B-2, Irugurkarar Thottam,
Selvarajapuram, Kannampalayam Post,
Coimbatore-641 402, Tamil Nadu. ... Petitioner

Vs.

Commercial State Tax Officer,
Palladam-II, Assessment Circle,
No:10, Pollachi Road,
Palladam, Tiruppur-641 664,
Tamil Nadu. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records in the file of the Respondent and quash the impugned order under Section 74 of the Tamil Nadu Goods and Service Tax Act, 2017/ Central Goods and Service Tax Act, 2017 having GSTIN 33BKSPP5391N1Z8 dated 21.07.2023 having Reference Number No:ZD3307230905195 along with summary of the rectification order dated 21.07.2023 having Reference No.ZD330723090582C passed by the Respondent for the FY-2019-20.

For Petitioner : Mr.N.V.Narayanan

For Respondent : Mr.G.Nanmaran
Special Government Pleader

ORDER

The present writ petition is filed challenging the impugned order passed by the respondent dated 21.07.2023 relating to the assessment year 2019-20.

2. The petitioner is a proprietor and engaged in the business of trading articles of lubricating preparations in the trade name and style Tvl.P.N.Krishna Iyer Trading Company. The petitioner is a registered under Central Goods and Services Act, 2017. During the relevant period, the petitioner had filed its returns and paid appropriate taxes. While scrutinizing the petitioner's returns, it was found that there was mismatch between GSTR 3B and GSTR 2A. Subsequently, notice in ASMT 10 was issued on 29.04.2022, another notice was issued in DRC-01A to the petitioner on 29.06.2022 through GST Portal, followed by a Show Cause Notice on 06.02.2023. Further, personal hearing was offered on 05.05.2023. However, the petitioner had neither filed its reply nor availed the opportunity for a personal hearing. Hence, the impugned order came to be passed, confirming the proposal.

3. The impugned order is challenged on the premise that the notices and orders were uploaded 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, she 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 21.07.2023 is set aside and the petitioner shall deposit 25% of the disputed tax within a period of four (4) 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.

12.11.2024

Speaking (or) Non Speaking Order
Index : Yes/ No
Neutral Citation: Yes/No
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To:
The Commercial State Tax Officer,
Palladam-II, Assessment Circle,
No:10, Pollachi Road,
Palladam, Tiruppur-641 664,
Tamil Nadu.

MOHAMMED SHAFFIQ, J.

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