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W.P.No.32648 of 2024

IN THE HIGHCOURT OF JUDICATURE AT MADRAS

DATED : 04.11.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.32648 of 2024

and

W.M.P. Nos.35489 and 35490 of 2024

Tvl.GKE Projects and Constructions Private Limited,
Rep. By its Director Mr.Inbarasan,
No.20, Mettu Street, Vilagadupakkam,
Tiruvallur-600 052.

... Petitioner

Vs.

The Assistant Commissioner (ST),
Cholavaram Assessment Circle,
Room No.109, 1st Floor,
Integrated Commercial Taxes Building,
Elephant Gate, Wall Tax Road,
Chennai-600 003.

... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records of the impugned order of the Respondent in GSTIN:33AAGCG8533M1ZA/2019-20 dated 20.08.2024 and the consequential summary of order in Reference No.ZD330824161840E dated 20.08.2024 and quash the same and consequently direct the Respondent to entertain the records, documents and reply from the petitioner and then pass order after affording a personal hearing to the petitioner.



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For Petitioner : Mr.M.Hariharan
For Respondent : Mr.V.Prashanth Kiran
Government Advocate

ORDER

The present writ petition is filed challenging the impugned order in Ref. No. GSTIN:33AAGCG8533M1ZA/2019-20 dated 20.08.2024, passed by the respondent on the premise that the same was 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 the business of works contract and is registered under the GST Act. During the relevant period of 2019-20, the petitioner has filed the returns and paid appropriate taxes. However, on scrutiny it was found that there was a mismatch between GSTR 3B and GSTR 1.

3. It is submitted by the learned counsel for the petitioner that a notice in ASMT 10 was issued on 25.08.2024 followed by a notice in Form DRC01 on 28.05.2023. Thereafter, reminder were also issued on 11.07.2024, 22.07.2024, 03.08.2024. However, the petitioner had not responded to any of the above



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notices / intimation, the impugned order was thus passed confirming the proposal. 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 discrepancy between GSTR 3B and GSTR 1.

4. The learned counsel for the petitioner would place reliance upon the recent judgment of this Court in the case of ***Sree Manoj International Vs. Deputy State Tax Officer in W.P.No.10977 of 2024 dated 25.04.2024***, to submit that this Court has remanded the matter back in similar circumstances subject to payment of 10% of the disputed taxes.

5. It was further submitted that the petitioner is ready and willing to pay 10% 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.

6. In view thereof, the impugned order dated 20.08.2024 is set aside and the petitioner shall deposit 10% of the disputed tax within a period of four



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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 respectively 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.

04.11.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
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To:
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MOHAMMED SHAFFIQ, J.

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