IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.32790 of 2024
and
W.M.P. No.35626 of 2024

Arumugam Rajkumar
Proprietor
M/s.Intelle Automation Controls
GSTIN/ID:33AJLPR2854H1ZZ
S.F.No.302/7 A, Sathish Nagar,
Opp.Vellingiri Andavar,
Spinning Mills, Irugur,
Coimbatore-641 103. ... Petitioner

Vs.

1.The Deputy Commissioner (GST),
GST Bhavan, 6/7, A.T.Devaraj Street,
Race Course, Coimbatore,
Tamil Nadu, India.

2.The State of Tax Officer,
Commercial Taxes Department,
Singanallur (South Circle),
Coimbatore Division, Coimbatore. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records of the 2nd Respondents proceeding dated 06.12.2023 made in impugned order Ref

No:ZD331223046433U dated 08.12.2023 (tax period July 2017 to March 2018) in GSTIN No.33AJLPR2854H1ZZ and quash the same as it is illegal and in gross violation of principles of natural justice and further direct the 2nd Respondent to re-do the assessment afresh after providing an opportunity to personal hearing as per the provisions of the GST Act.

For Petitioner : Mr.Sam Jayaraj Houston
for M/s.Sarvabhauman Associates

For Respondents : Ms.Amrita Dinakaran
Government Advocate

ORDER

The present writ petition is filed challenging the impugned order passed by the first respondent dated 08.12.2023 relating to the assessment year 2017-18.

2. The petitioner is engaged in manufacture of boards, panels, consoles, desks and other bases for electrical control or the distribution of electricity. The petitioner has registered under Goods and Services Act, 2017. During the relevant period, the petitioner had filed its return and paid appropriate taxes. On a comparison of the returns filed, *inter alia* the following discrepancies were noticed:

i) Mismatch between GSTR 3B vs. GSTR 1 and

ii) Mismatch between GSTR 3B vs. GSTR 2A

2.1. Subsequently, notices were issued in DRC-01A on 19.09.2023 and DRC-01 on 29.09.2023 through online, followed by reminder and personal hearing notice on 18.10.2023 . However, the petitioner had neither availed the opportunity of personal hearing nor filed its reply. 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 issues that arise for consideration in the impugned order are the alleged mismatch between GSTR 3B vs GSTR 1 and GSTR 3B vs 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.

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 Government Advocate appearing for the respondents does not have any serious objection.

6. In view thereof, the impugned order dated 08.12.2023 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 respondents 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 restored.

7. Accordingly, the Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

12.11.2024

Speaking (or) Non Speaking Order
Index : Yes/ No
Neutral Citation: Yes/No
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To:
1.The Deputy Commissioner (GST),
GST Bhavan, 6/7, A.T.Devaraj Street,
Race Course, Coimbatore,
Tamil Nadu, India.

2.The State of Tax Officer,
Commercial Taxes Department,
Singanallur (South Circle),
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MOHAMMED SHAFFIQ, J.

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