IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.34605 of 2024
and
WMP Nos.37529 and 37530 of 2024

Tvl Saras Electricals
Rep. by its Proprietor Bhikam Chand
No 44 New No.69, Thiru Complex
Pantheon Street, Chennai-600 008 : Petitioner

Versus

The State Tax Officer
GROUP-II, INTELLIGENCE-I,
OFFICE OF THE JOINT COMMISSIONER (ST) INTELLIGENCE-I,
NO.1, PAPJM BUILDINGS, GREAMS ROAD,
THOUSAND LIGHTS, CHENNAI-600 006 : Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus calling for the records of the impugned proceedings of the respondent in GSTIN 33AAHPB1357N1ZT/2019-20 dated 02.03.2024 and Form DRC-07 in Reference No. ZD330324009713S dated 02.03.2024 for the year 2019-20 under TNGST Act 2017 and the same and direct the respondent to accept the reply and also provide opportunity of personal hearing

For Petitioner : Ms.K.Tharani
for Mr.M.Hariharan

For Respondent :Mr.T.N.C.Kaushik,
Additional Government Pleader

ORDER

The present writ petition is filed challenging the impugned order passed by the respondent dated 02.03.2024 relating to the assessment year 2020-21.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in the business of electrical and electronic items and is registered under the Goods and Services Tax Act, 2017. During the relevant period 2020-21, the petitioner filed its returns and paid the appropriate taxes. However, during the inspection in the petitioner's business premises on 18.07.2023 and 19.07.2023, the following discrepancies were noticed:

i) List of E-Way Bills generated for inward supply without actual movement of goods using fake ot two wheeler/three wheeler vehicle numbers/vehicle details not found

ii) Difference between GSTR 3B and GSTR 2A

iii) Cancelled e-way bill (Outward Supply)

iv) ITC reversal for sales return

v) Interest for RCM

vi) Difference between ITC as per table 8 (A) and 8 (B)

3. It is submitted by the learned counsel for the petitioner that an intimation in DRC-01A was issued on 07.02.2023, followed by a notice in DRC-01 on 10.10.2023. Further, personal hearings were offered on 07.11.2023, 05.12.2023 and 22.02.2024. However, the petitioner had neither filed its reply nor availed the opportunities for personal hearings. It is submitted by the learned counsel for the petitioner that neither the show cause notices nor the impugned order of assessment has been served on the petitioner by tender or sending it by RPAD, instead it had been uploaded in the GST Portal, thereby, the petitioner was unaware of the initiated proceedings and was thus unable to participate in the adjudication proceedings. It is submitted by the learned counsel for the petitioner that if the petitioner is provided with an opportunity, they would be able to explain the alleged discrepancies.

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,*** to submit that this court has remanded the matter back in similar circumstances subject to payment of 25% of the disputed taxes.

5. It was further submitted that the petitioner is ready and willing to pay 25% of the disputed tax and that they may be granted one final opportunity before the adjudicating authority to put forth their objections to the proposal, to which the learned Additional Government Pleader appearing for the respondent does not have any serious objection.

6. In view thereof, the impugned order dated 02.03.2024 is set aside and the petitioner shall deposit 25% of the disputed tax within a period of four weeks from the date of receipt of a copy of this order. 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 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.

28.11.2024

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

To
The State Tax Officer
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MOHAMMED SHAFFIQ, J.

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