IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.11.2024

Coram

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.33516 of 2024
and
W.M.P.Nos.36291 & 36292 of 2024

Tvl.Granite Stone Industry,
Represented by its Authorised representative
Arvind Jaipuria,
47 and 48, SIDCO Industrial Area,
Bargur Post, Krishnagiri Taluk,
Krishnagiri, Tamil Nadu - 635 104. ...Petitioner

Vs.

The Assistant Commissioner (ST),
Krishnagiri-II Circle. ... Respondent

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the respondent order dated 07.03.2024 bearing reference No.:ZD330324036280Y FY 2018-19 and to quash the same as it has been passed in violation of principles of natural justice.

For Petitioner : Mr.Adithya Reddy

For Respondent : Mr.G.Nanmaran
Special Government Pleader

ORDER

The present Writ Petition is filed challenging the impugned order dated 07.03.2024 passed by the respondent relating to the financial year 2018-2019.

2. Mr.G.Nanmaran, learned Special Government Pleader, takes notice on behalf of the respondent. By consent of the parties, the main Writ Petition is taken up for disposal at the admission stage.

3. The petitioner is engaged in the business of Granite and Marble and a registered assessee under the Goods and Service Tax Act, 2017. During the relevant period, the petitioner had filed its return and paid appropriate taxes. On scrutiny of the returns, it was found that there was a mismatch between GSTR-3B and GSTR-2A. Subsequently, notice was issued in Form DRC-01 to the petitioner on 26.01.2024 through GST portal, followed by an opportunity of personal hearing on 26.02.2024. However, the petitioner had neither filed its reply nor paid the tax amount. Hence, the impugned order came to be passed.

4. 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.

5. The issues that arise for consideration in the impugned order is the 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 discrepancy.

6. 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.

7. In view thereof, the impugned order dated 07.03.2024 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 restored.

8. Accordingly, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

18.11.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
jd

To
The Assistant Commissioner (ST),
Krishnagiri-II Circle.

MOHAMMED SHAFFIQ, J.
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