IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.33589 of 2024
and
W.M.P.Nos.36379 & 36378 of 2024

Tvl.Shree Om Stones
Represented by its Authorised representative Dileep Pareek,
No.77/4-5, Achamangalam Road, Seemanoor Village/Post,
Bargur, Krishnagiri-635 108. ... Petitioner

Vs.

The Deputy State Tax Officer-1,
Krishnagiri-11. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records of the respondent order dated 20.01.2024 bearing reference No.ZD330124088303Q AY 2021-22 and to quash the same.

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 20.01.2024 passed by the respondent relating to the assessment year 2021-2022.

2. Mr.G.Nanmaran, learned Special Government Pleader (Taxes) 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 quarrying and trading in stones and is a registered assessee under Goods and Services Act, 2017. During the relevant period, the petitioner had filed its return and paid appropriate taxes. While scrutinizing the petitioner's return for the assessment year 2021-2022, it was found that on comparison of GSTR-2A and CMP-08 filed by the petitioner, taxable value of supplies made as declared is less than the purchases. Subsequently, notices in Form DRC-01A and Form DRC-01 dated 18.10.2023 and 15.11.2023 respectively were issued to the petitioner through GST Portal, followed by personal hearing opportunity was granted on 29.11.2023. 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 limited issue that arises for consideration in the impugned order is the alleged mismatch between purchase turnover and sales turnover. 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 between purchase turnover and sales turnover.

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 20.01.2024 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., four 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.

14.11.2024

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

The Deputy State Tax Officer-1,
Krishnagiri-11.

MOHAMMED SHAFFIQ, J.

jd

W.P. No.33589 of 2024

14.11.2024