IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.33653 of 2024
and
W.M.P.Nos.36423, 36424 and 36426 of 2024

M.M.Car Accessories,
Rep. by its Proprietor,
Mangalaram,
No.7, Ramaswamy Street, Woods, Road,
Anna Salai,
Chennai 600 002. ..Petitioner

Vs.

1.The Deputy Commissioner (ST),
Chennai Central III,
PAPJM Annex Building, III Floor,
#1, Greams Road,
Chennai 600 006.

2.The Assistant Commissioner (ST),
Anna Salai Assessment Cirlce,
No.1, Greams Road,
Chennai 600 006. ..Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorarified Mandamus calling for the records pertaining to impugned Demand Order dated 22.12.2023 made in ZD331223173218M under Section 73 of TNGST/CGST Act, 2017, for Tax Period 2017-2018, along with DRC 07 by the second respondent and quash the same and consequently direct the respondent department to release the attachment of the petitioner's current bank account bearing Account Number 332501010664243 maintained in Union Bank of India, Mount Road Branch, Chennai by de-freezing it.

For Petitioner : Mr.P.Vikramkumar

For Respondent : Mr.G.Nanmaran,
Special Government Pleader.

ORDER

The present writ petition is filed challenging the impugned order passed by the first respondent dated 22.12.2023 relating to the assessment year 2017-18.

2. The petitioner is engaged in businesses of manufacturing parts and Accessories of the Motor Vehicles of headings 8701 to 8705 Bumpers and parts thereof for tractors and is a registered dealer under the Goods and Services Act, 2017. During the relevant period, the petitioner filed its return and paid the

appropriate taxes. However, during the scrutiny of the petitioner's return, it was found that petitioner's outward supply in GSTR-3B is less compared to their inward supply in GSTR 2A/2B. Subsequently, a notice was issued to the petitioner in ASMT 10 on 04.08.2023, followed by a Show Cause Notice in DRC-01 dated 22.09.2023. However, the petitioner had neither filed its reply nor paid the tax. Hence, the impugned order came to be passed, confirming the proposal.

3. The impugned order is challenged on the premise that neither the show cause notices nor the impugned order of assessment have been served by tendering to the petitioner or by registered post, instead it was uploaded in the common portal. It was further submitted that the petitioner was unable to access the common portal and thus was unable to participate in the adjudication proceedings.

4. 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. The learned counsel for the petitioner would then 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 they may be granted one final opportunity before the adjudicating authority to put forth their objections to the proposal. It is further submitted that there is bank attachment and the same may be lifted, to which, the learned Special Government Pleader appearing for the respondents does not have any serious objection.

5. In view thereof, the impugned order 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., 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. It was submitted that pursuant to the impugned order of assessment, recovery proceedings were initiated and bank accounts have been attached. In view of the order passed herein, the bank attachment shall be lifted forthwith on complying with the above condition i.e., payment of 25% of disputed taxes within a period of two weeks from the date of receipt of a copy of this order.

6. Accordingly, the Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

21.11.2024

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

1.The Deputy Commissioner (ST),
Chennai Central III,
PAPJM Annex Building, III Floor,
#1, Greams Road,
Chennai 600 006.

2.The Assistant Commissioner (ST),
Anna Salai Assessment Cirlce,
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MOHAMMED SHAFFIQ, J.

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