**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 27.11.2024**

**CORAM**

**THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ**

**W.P. No.34662 of 2024**

Tvl.Commandant TSPV Battalion Avadi,
Tamilnadu Police Unit Canteen,
Represented by the Commandant,
Mr.Manivarnan,
C/9, SM Nagar Police Quarters,
Avadi, Chennai-600062. ... Petitioner

Vs.

The State Tax Officer,
Thirumullaivoyal Assessment Circle,
Road No.114-1st Floor,
Integrated Commercial Taxes Offices Building,
No.32, Elephant Gate Bridge Road, Park Town,
Chennai-600 003. ... Respondent

**PRAYER**: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records of the impugned order under Section 73 dated 08.02.2023 having reference No.ZD330223030634X for the F.Y.2021-22 passed by the respondent, and quash the same as it was passed in violation of principles of natural justice.

For Petitioner : Mr..Anandh S
For Respondent : Mr.C.Harsha Raj
Additional Government Pleader

**ORDER**

The present Writ Petition is filed challenging the impugned order passed by the respondent dated 08.02.2023 relating to the assessment year 2021-22.

2. The petitioner is running a police canteen. The petitioner is a registered dealer 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, it was found that there was mismatch between GSTR-3B and GSTR-2A. Subsequently, notice was issued in DRC-01A to the petitioner on 05.07.2022 through GST Portal, followed by a Show Cause Notice on 14.12.2022 and an opportunity of personal hearing was also granted. However, the petitioner had neither filed its reply nor availed of the opportunity of personal hearing. 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 limited issue that arises for consideration in the impugned order is the alleged 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 discrepancies between GSTR-3B and GSTR-2A.

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 Additional Government Pleader appearing for the respondent does not have any serious objection.

6. In view thereof, the impugned order dated 08.02.2023 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 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 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. No costs. Consequently, W.M.P.Nos.37589 and 37591 of 2024 are closed.

**27.11.2024**

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

To:
The State Tax Officer,
Thirumullaivoyal Assessment Circle,
Road No.114-1st Floor,
Integrated Commercial Taxes Offices Building,
No.32, Elephant Gate Bridge Road, Park Town,
Chennai-600 003.

**MOHAMMED SHAFFIQ, J.**

mrn

**W.P. No.34662 of 2024**

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