IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.33496 of 2024
and
W.M.P.Nos.36263 and 36264 of 2024

M/s.M.D.Overseas Limited,
Rep. by its Senior Manager, Thiru.Amit Mittal,
130, NSC Bose Road,
Chennai 600 079,
Tamil Nadu. ..Petitioner

Vs.

1.State Tax Officer
Peddunaickenpet Assessment Circle,
Integrated Commercial Taxes Building,
No.32, Elephant Gate Bridge Road,
Chennai 600 003.

2.Assistant Commissioner (ST),
Peddunaickenpet Assessment Circle,
Integrated Commercial Taxes Building,
No.32, Elephant Gate Bridge Road,
Chennai 600 003. ..Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorarified Mandamus call for the records of the first respondent in proceedings first cited in GSTIN: 33AACCM9507F1ZN/2017-18 dated 20.11.2023 and to quash this impugned order passed by the first respondent is arbitrary, illegal and direct the first respondent to pass fresh orders as per the guidelines issued by the Finance Department Circular No. 183/15/2022-GST dated 27.12.2022 for the year 2017-18 in this case.

For Petitioner : Mr.C.Baktha Siromoni

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

ORDER

The present writ petition is filed challenging the impugned order passed by the first respondent dated 20.11.2023 relating to the assessment year 2017-18.

2. The petitioner is engaged in the business of trading gold coins, silver bars and silverwares 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 monthly return, it was found that there was certain discrepancies between GSTR-3B and GSTR-2A/GSTR-2B.

Subsequently, a notice was issued to the petitioner in DRC-01A on 13.07.2022, followed by a notice in DRC-01 dated 08.09.2023 through the GST Portal. A personal hearing was also offered on 10.11.2023. However, the petitioner had neither filed its reply nor availed personal hearing. 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.

11.11.2024

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

1.State Tax Officer
Peddunaickenpet Assessment Circle,
Integrated Commercial Taxes Building,
No.32, Elephant Gate Bridge Road,
Chennai 600 003.

2.Assistant Commissioner (ST),
Peddunaickenpet Assessment Circle,
Integrated Commercial Taxes Building,

No.32, Elephant Gate Bridge Road,
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MOHAMMED SHAFFIQ, J.

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