IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.34282 of 2024
and
WMP Nos.37140 and 37143 of 2024

Ayyanar Steel Trading
Represented by its Partner,
N Ellapan : Petitioner

versus

The State Tax Officer,
Alagapuram Circle, Salem,
2nd Floor, Integrated Commercial Taxes
Building, Pitchards Road, Hasthampatty,
Salem-636 007 : Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records on the files of the respondent herein in GSTIN/33ABGFA9345R1ZU/2019-20 in Form GST DRC-07 proceedings dated 19.08.2024 and quash the same.

For Petitioner : Ms.Siri Chandana K

For Respondent :Mr.G.Nanmaran
Special Government Pleader

ORDER

The present writ petition is filed challenging the impugned order in GSTIN/33ABGFA9345R1ZU/2019-20 dated 19.08.2024, passed by the respondent on the premise that the same was made in violation of principles of natural justice.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in the business of trading of and is registered under the GST Act. During the relevant period of 2019-20, the petitioner has filed the returns and paid appropriate taxes. However, on examination of the information furnished under the various heads and also the information furnished in GSTR-01, GSTR-2A, GSTR-3B and other records available, the following discrepancies were noticed:

i) Input Tax Credit claimed from cancelled dealers, return defaulters & tax non-payers

ii) Ineligible Input Tax Credit under Section 17(5)

3. It is submitted by the learned counsel for the petitioner that an intimation and show cause notice in Form DRC 01 was issued on 22.05.2024

and reminder on 08.07.2024. However, the petitioner had not responded to any of the above notices / intimation, the impugned order was thus passed confirming the proposal. 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.

4. The learned counsel for the petitioner would place reliance upon the recent judgment of this Court in the case of **Sree Manoj International Vs. Deputy State Tax Officer in W.P.No.10977 of 2024 dated 25.04.2024**, to submit that this court has remanded the matter back in similar circumstances subject to payment of 10% of the disputed taxes.

5. It was further submitted that the petitioner is ready and willing to pay 10% 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.

6. In view thereof, the impugned order dated 19.08.2024 is set aside and the petitioner shall deposit 10% of the disputed tax within a period of four 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 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. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

27.11.2024

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

To

The State Tax Officer,
Alagapuram Circle, Salem,
2nd Floor, Integrated Commercial Taxes
Building, Pitchards Road, Hasthampatty,
Salem-636 007

MOHAMMED SHAFFIQ, J.

mrn

W.P. No.34282 of 2024

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