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.33913 of 2024
and
W.M.P.Nos.36729 and 36730 of 2024

Tvl.Bharath Paper Company
Rep. by its proprietor R.Bharath,
11, Anderson Street,
George Town,
Chennai, Tamil Nadu 600 001. ..Petitioner

Vs.

1.The Deputy State Tax Officer-I,
Loansquare Assessment Circle,
Integrated Buildings for Commercial Taxes Department,
Chennai North Division,
No.32, Elephant Gate Bridge Road,
Chennai 600 003.

2.The Assistant Commissioner (State Tax),
Loansquare Assessment Circle,
Integrated Buildings for Commercial Taxes Department,
Chennai North Division,
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 Certiorari calling for the records of the first respondent in Form GST DRC-07 with Reference No. ZD3303241817098 dated 27.03.2024 passed under section 73 of the TNGST Act 2017 and quash the same as illegal, devoid of merits and against principles of natural justice.

For Petitioner : Mr.M.Varun Pandian

For Respondents : Mr.C.Harsha Raj,
Additional Government Pleader.

ORDER

The present writ petition is filed challenging the impugned order passed by the first respondent dated 27.03.2024 relating to the assessment year 2018-19.

2. The petitioner is engaged in retail business of trading in paper and paper boards, printed books, printed or illustrated postcards or illustrated postcards, wedding cards and is a registered person 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 there was excess input tax credit availed. Subsequently, a notice was issued to the

petitioner in Form GST ASMT 10 on 12.01.2024, followed by a reminder dated 14.02.2024. 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 subsequent to the passing of the impugned order, the petitioner has remitted amounts in excess of the admitted tax and his only request is that the same may be adjusted towards 25% of the disputed tax. It is further submitted that there is bank attachment and the same may be lifted, to which, the learned Additional 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. The respondent authority shall take into account the amount remitted by the petitioner in excess of the admitted tax, while reckoning 25% of the disputed tax. 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
shk

MOHAMMED SHAFFIQ, J.

shk

To

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