IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.35520 of 2024

M/s.Supreme Agency,
Represented by its Proprietor Shahul Hameed,
Ground Floor, New No.2 Old No.57,
VN Doss Road, Mount Road, Chennai-600 002. ..Petitioner

Vs.

Deputy State Tax Officer,
State Commercial Taxes Department,
Thiruvallikeni Assessment Circle,
Chennai-600035. ..Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorarified Mandamus calling for the records of the respondent in the impugned order vide Reference GSTIN/33DOJPS2559A1ZZ/2017-18 dated 30.12.2023 and quash the same and consequently, direct the respondent to defreeze the bank accounts of the petitioner and pass orders.

For Petitioner : Ms.Anu Viswanath

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

ORDER

The present writ petition is filed challenging the impugned order passed by the respondent dated 30.12.2023 relating to the assessment year 2017-18.

2. The petitioner is engaged in business of trading and supply of automobile spare parts 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. While scrutinizing the petitioner's monthly return, it was noticed that there was mismatch between GSTR-01 and GSTR-3B/GSTR-2A/2B. Subsequently, a notice was issued to the petitioner in DRC 01A on 11.09.2023, followed by a Show Cause Notice in DRC-01 dated 25.09.2023. The petitioner was also given opportunity of personal hearing on 30.10.2023 and reminder on 28.12.2023. However, the petitioner had neither filed its reply nor availed the opportunity of 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/withdrawn, to which, the learned Special Government Pleader appearing for the respondent 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., 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/withdrawn 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, WMP Nos.38401 and 38402 of 2024 are closed.

29.11.2024

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

To
The Deputy State Tax Officer,
State Commercial Taxes Department,
Thiruvallikeni Assessment Circle,
Chennai-600035.

<u>MOHAMMED SHAFFIQ, J.</u>

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