



W.P. No.34470 of 2024

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.34470 of 2024

M/s.Sugos Steel Traders,
Represented by its Partner V.Govindkumar

... Petitioner

Vs.

The Assistant Commissioner (ST)(FAC),
Hosur (South) III Assessment Circle,
Hosur -635 109.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the connected records of the impugned proceedings of the respondent herein made in GSTIN:33ABUFS3962LIZF/2017-18 dated 14.05.2024 and quash the same as illegal and barred by limitation.

For Petitioner : Mr.Manoharan S Sundaram

For Respondent : Mr.V.Prashanth Kiran
Government Advocate



W.P. No.34470 of 2024

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ORDER

The present Writ Petition is filed challenging the impugned order passed by the respondent dated 14.04.2024 relating to the assessment year 2017-18.

2. The petitioner is engaged in supply of iron, steel and M.S.Scraps. The petitioner is a registered dealer under the Tamil Nadu Goods and Services Act, 2017. During the relevant period, the petitioner filed its return and paid appropriate taxes. While scrutinizing the petitioner's return, it was found that the suppliers were allegedly fictitious/non existing entity.

2.1. Subsequently, a notice was issued in DRC-01A to the petitioner on 22.10.2022 through GST Portal, followed by a Show Cause Notices on 09.01.2023, 19.02.2024 and 01.04.2024. However, the petitioner had neither filed its reply nor paid the tax amount. Hence, the impugned order came to be passed, whereby input tax credit has been instructed to be blocked.

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



W.P. No.34470 of 2024

thus unable to participate in the adjudication proceedings.

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4. The limited issue that arises for consideration in the impugned order is whether the suppliers were allegedly fictitious/non existing entity. 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 allegation in the impugned order.

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

6. In view thereof, the impugned order dated 14.05.2024 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



W.P. No.34470 of 2024

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.37356 and 37358 of 2024 are closed.

27.11.2024

Speaking (or) Non Speaking Order

Index : Yes/ No

Neutral Citation: Yes/No

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W.P. No.34470 of 2024

To:

The Assistant Commissioner (ST)(FAC),
Hosur (South) III Assessment Circle,
Hosur -635 109.



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W.P. No.34470 of 2024

MOHAMMED SHAFFIQ, J.

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W.P. No.34470 of 2024

27.11.2024