IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.11.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.34479 of 2024
and
W.M.P.Nos.37368 & 37369 of 2024

M/s.Sugos Steel Traders,
represented by its Partner,
Thiru V.Govindkumar,
293/6B Mugulur Village,
Mathigiri, Sanamavoo Post,
Hosur - 635 110. ...Petitioner

Vs.

The Assistant Commissioner (ST) (FAC),
Hosur (South) 3 Assessment Circle,
Hosur - 635 109. ... Respondent

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the connected records pertaining to the impugned proceedings of the respondent herein made in Reference No.GSTIN 33ABUFS3962L1ZF/2017-18 dated 06.06.2024 and quash the same as being without jurisdiction, barred by limitation and contrary to the principles of natural justice.

For Petitioner : Mr.Manoharan S.Sundaram

For Respondent : Mr.V.Prashanth Kiran
Government Advocate

ORDER

The present Writ Petition is filed challenging the impugned order dated 06.06.2024 passed by the respondent relating to the assessment year 2017-2018.

2. Mr.V.Prashanth Kiran, learned Government Advocate takes notice on behalf of the respondent. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The petitioner is a registered dealer in iron, steel and M.S.Scraps under the CGST/TNGST Act, 2017. During the relevant period, the petitioner had filed its return and paid appropriate taxes. While scrutinizing the petitioner's return, it was found that there was mismatch between GSTR3B and GSTR2A. Subsequently, a notice in Form GST DRC-01A was issued to the petitioner on 19.10.2023 through GST portal, followed by a show cause notice in Form GST DRC-01 dated 31.12.2023 along with two reminder notices dated 08.02.2024 and 04.05.2024 and opportunity of personal hearing was also granted to the petitioner on 09.05.2024. The petitioner appeared before the respondent on 09.05.2024, however, the petitioner had not produced any documentary

evidence to put-forth its contention. Hence, the impugned order came to be passed by the respondent confirming the proposals.

4. The limited issue that arises for consideration in the impugned order is the alleged mismatch between GSTR-3B and GSTR-2A. 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 between GSTR-3B and GSTR-2A.

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 06.06.2024 is set aside and

the petitioner shall deposit 25% of the disputed tax within a period of two (2) 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.

7. Accordingly, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

22.11.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
jd
To
The Assistant Commissioner (ST) (FAC),
Hosur (South) 3 Assessment Circle,
Hosur - 635 109.

MOHAMMED SHAFFIQ, J.
jd

W.P.No.34479 of 2024

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