IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.33505 of 2024
and
W.M.P.Nos.36276, 36279, 36281 and 36283 of 2024

Sri Maya Electric Co,
Rep. by its Proprietor
Rajesh,
No.6, Ground Floor, Thambu Naicken Street,
Sowcarpet,
Chennai 600 079. ..Petitioner

Vs.

1.The Deputy Commissioner (ST)
Sowcarpet Assessment Circle,
Chennai 600 006.

2.The Deputy State Tax Officer -2,
Sowcarpet Assessment Circle,
Integrated Commercial Tax Building,
Chennai (North) Division,
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 Certiorarified Mandamus calling for the records pertaining to Demand Order dated 24.11.2023 made in ZD331123154690R under Section 73 of CGST/TNGST Act, 2017 for tax period 2018-2019 and consequent Rectification Order dated 08.05.2024 made in ZD330524050016V, along with Form GST DRC 08, on the file of the second Respondent and to quash to the same and consequently direct the Respondent Department to release the attachment of the Petitioner's Current bank account bearing Current Account No.9940460115 maintained in Kotak Mahindra Bank, Chennai G.N. Street branch, by de-freezing it.

For Petitioner : Mr.P.Vikramkumar

For Respondents : Mr.Prashanth Kiran,
Government Advocate.

ORDER

The present writ petition is filed challenging the impugned order passed by the second respondent dated 24.11.2023 and the consequential rectification order dated 08.05.2024 relating to the assessment year 2018-19.

2. The petitioner is engaged in the trading business of wire, rods, tubes, plates, electrodes and similar products made of base metal. The petitioner is a registered dealer under Goods and Services Act, 2017. During the relevant period, the petitioner had filed its return and paid appropriate taxes. However, during scrutiny of the petitioner's return, it was found that there was certain discrepancies

between GSTR-3B and GSTR-2A/GSTR-2B. Subsequently, a notice in ASMT-10 was issued to the petitioner on 14.08.2023, followed by a notice in DRC-01 on 21.09.2023. Thereafter, a reminder was issued and personal hearing was offered on 20.10.2023. However, the petitioner had neither filed its reply nor paid the tax amount. Hence, the impugned order came to be passed.

3. It is submitted by the learned counsel for the petitioner that there was a suo-moto rectification made by the respondent vide proceedings dated 08.05.2024 inasmuch as there were certain discrepancies between GSTR-3B and GSTR-2A/GSTR-2B and the import data received from ICEGATE which was not taken into account during the passing of the original order of assessment. After putting the petitioner on notice, a rectification order was made resulting in a reduction of the tax liability. The petitioner had thereafter filed another rectification petition on 29.06.2024 and the same was rejected vide proceedings dated 12.09.2024. In the meanwhile, recovery proceedings have also been initiated.

4. The impugned order is challenged on the premise that neither the show cause notices nor the impugned order of assessment dated 24.11.2023 has 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 unable to participate in the adjudication proceedings.

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

6. 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. It is further submitted that there is bank attachment and

the same may be lifted, to which, the learned Government Advocate appearing for the respondents does not have any serious objection.

7. In view thereof, the impugned order dated 24.11.2023 is set aside and the petitioner shall deposit 25% of the disputed tax i.e., as reduced by order of rectification dated 08.05.2024 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 from the date of receipt of a copy of this order, the impugned order of assessment shall stand restored. The bank attachment shall be lifted forthwith.

8. Accordingly, the writ petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

11.11.2024

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

To

1.The Deputy Commissioner (ST)
Sowcarpet Assessment Circle,
Chennai 600 006.

2.The Deputy State Tax Officer -2,
Sowcarpet Assessment Circle,
Integrated Commercial Tax Building,
Chennai (North) Division,
Elephant Gate Bridge Road,
Chennai 600 003.

MOHAMMED SHAFFIQ, J.

shk

W.P.No.33505 of 2024
and
W.M.P.Nos.36276, 36279, 36281 and 36283 of 2024

11.11.2024