IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.34779 of 2024
and
W.M.P. No.37714 of 2024

Aradhanaa Palace (HUF),
Represented by its authorised signatory,
Mr.M.V.Ravichandran
96/1, Alagapuram Main Road,
Salem, Tamil Nadu-636 005. ... Petitioner

Vs.

1.Assistant Commissioner (ST)(FAC),
Sevapet Assessment Circle,
3rd Floor, Commercial Taxes Office Building,
Pitchards Road, Hasthampathy, Salem-636 007.

2.Deputy Commissioner (ST)(GST)(Appeal),
Erode and Salem,
Integrated Commercial Taxes Building,
Room No.233, II Floor,
No.17, Pitcards Road, Salem-636 007. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records relating to the impugned order No.ZD330823000919D dated 01.08.2023 passed by the 1st Respondent under Section 74 of the Central Goods and Services Tax Act, 2017 read with the corresponding provision under the Tamil Nadu Goods and Services Tax Act, 2017 (CGST) for the year 2019-20 and quash the same.

For Petitioner : Mr.V.Srinivasan

For Respondents : Mr.TNC Kaushik
Additional Government Pleader

ORDER

The present writ petition is filed challenging the impugned order passed by the respondent dated 01.08.2023 relating to the assessment year 2019-20.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in renting of a commercial complex and is registered under the Goods and Services Tax Act. During the relevant period, the petitioner had filed its return and paid appropriate taxes. However, during the scrutiny of the petitioner's monthly returns, the petitioner had reported the supplies made in GSTR-1, however failed to pay tax on such supplies in GSTR 3B.

3. It is submitted by the learned counsel for the petitioner that an intimation in DRC-01A was issued on 13.06.2023, followed by a notice in DRC-01 on 28.06.2023. However, the petitioner had neither filed its reply nor paid the taxes. It is submitted by the learned counsel for the petitioner that neither the show cause notices nor the impugned order of assessment has been served on the petitioner by tender or sending it by RPAD, instead it had been uploaded in the

"view additional notices" tab on the GST Portal, thereby, the petitioner was unaware of the initiated proceedings and was thus unable to participate in the adjudication proceedings. 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.

4. 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,*** to submit that this court has remanded the matter back in similar circumstances subject to payment of 25% of the disputed taxes. It was further submitted by the learned counsel for the petitioner that subsequent to the passing of the impugned order, the entire disputed tax has been recovered and that they may be granted one final opportunity before the adjudicating authority to put forth their objections to the proposal, to which, the learned Additional Government Pleader appearing for the respondent does not have any serious objection.

5. Since, the above order is made on the basis of the statement made by the

learned counsel for the petitioner that the entire disputed tax has been recovered already, the respondent may verify the same. If the statement made by the learned counsel for the petitioner regarding the payment of entire disputed taxes is incorrect, the respondent authority shall intimate the same to the petitioner who shall deposit 25% of disputed taxes within 2 weeks from the date of such intimation. Subject to verification of payment of the entire disputed taxes or on payment of 25% of disputed taxes.

6. In view thereof, the impugned order dated 01.08.2023 is set-aside. The petitioner shall treat the impugned order as show cause notice and the petitioner shall file their objections within a period of four weeks from the date of receipt of a copy of this order. If any such objections are filed within the stipulated period, the respondent shall consider the same and pass appropriate orders in accordance with law after affording the petitioner a reasonable opportunity of hearing. If objections are not filed within the stipulated period i.e., four weeks from the date of receipt of a copy of this order or if deposit of 25% is not made within the stipulated period, if not already paid, the impugned order of assessment shall stand restored.

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

26.11.2024

Speaking (or) Non Speaking Order
Index : Yes/ No
Neutral Citation: Yes/No
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To:
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MOHAMMED SHAFFIQ, J.

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