IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.34477 of 2024
and
WMP Nos.37366 and 37370 of 2024

Classic Mobiles,
Represented by its Proprietor,
Javithkhan
No.40 E 4th Cross Co-operative Colony,
Krishnagiri : Petitioner

versus

The State Tax Officer (ST),
Inspection Group 2,
Office of the Joint Commissioner (ST),
Intelligence, Commercial Taxes Building,
Perandapalli, Hosur 635 109. : Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, or any other appropriate Writ, Order or Direction under Article 226 of the Constitution of India, calling for the records on the files of the respondent herein in GSTIN/ID/33AIIPJ0425A1Z3/2018-19 dated 31.05.2024 in FORM GST DRC-07 in reference No/ZD330524334308J and No.INS 01/Sl.57/2023-24 proceedings dated 31.05.2024 and quash the same.

For Petitioner : Mr.K. Siri Chandana

For Respondent :Ms. Amrita Dinakaran
Government Advocate

ORDER

The present writ petition is filed challenging the impugned order passed by the respondent dated 31.05.2024 relating to the assessment year 2018-19.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in the business of mobiles and accessories of fruit pulp and is registered under the Goods and Services Tax Act, 2017. During the relevant period of 2018-19, the petitioner filed its returns and paid the appropriate taxes. However, during the scrutiny of the petitioner's monthly return, the following discrepancies were noticed:

i) Mismatch between GSTR 3B and GSTR 2A

ii) Difference between GSTR 3B and profit and loss account

iii) Discount received

iv) Profit and Loss account

v) Inward E way Bills

3. It is submitted by the learned counsel for the petitioner that an intimation in DRC-01A was issued on 28.06.2023, followed by a notice in DRC-01 on 23.12.2023 and reminder on 22.02.2024. However, the petitioner had neither filed its reply nor paid the tax amount. 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 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.

5. 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, to which the learned Government Advocate appearing for the respondent does not have any serious objection.

6. In view thereof, the impugned order dated 31.05.2024 is set aside and the petitioner shall deposit 25% of the disputed tax within a period of four weeks from the date of receipt of a copy of this order. The impugned order of assessment shall be treated as show cause notice and the petitioner shall submit its objections within a period of four 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 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. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

27.11.2024

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

To

The State Tax Officer (ST),
Inspection Group 2,
Office of the Joint Commissioner (ST),
Intelligence, Commercial Taxes Building,
Perandapalli, Hosur 635 109.

MOHAMMED SHAFFIQ, J.

mrn

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