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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

**WP No.34441 of 2024**

Ayyanar Steel Trading
Represented by its Partner
N Ellapan
No.15/1, State Bank Officer Colony,
2nd Cross, Bangalore Covai Byepass Road,
Salem-636 004. ... Petitioner

versus

The State Tax Officer
Alagapuram Circle, Salem,
2nd Floor, Integrated Commercial Taxes
Building, Pitchards Road, Hasthampatty,
Salem -636 007. ... Respondent

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of Certiorari, calling for the records on the files of the respondent herein in GSTIN/33ABGFA9345R1ZU/2019-20 in FORM GST DRC-07 proceedings dated 29.01.2024 and quash the same.



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For the Petitioner :Mr.A.P.Karventhan
for K.Siri Chandana
S.Vishnu Priya
B.Syed Abdul Wakeel
M.Rajkumar
V.Amirtha Leha

For the Respondent :Mr.G.Nanmaran
Special Government Pleader

**ORDER**

The present writ petition is filed challenging the impugned order passed by the respondent dated 29.01.2024 relating to the assessment year 2019-20.

2. The petitioner is engaged in the business of trading of steel bars. The petitioner is a registered dealer under CGST and GST Acts. 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 were certain discrepancies between GSTR-3B and GSTR-2A. Subsequently, notice was issued in DRC-01A to the petitioner on 14.11.2023 through GST Portal,



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followed by a Show Cause Notice on 22.12.2023. The petitioner was also further given opportunity of personal hearing on 24.01.2024. However, the petitioner had neither filed its reply nor availed of the opportunity of personal hearing. Hence, the impugned order came to be passed.

3. The impugned order is challenged on the premise that neither the show cause notices nor the impugned order of assessment 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.

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, they would be able to explain the alleged discrepancies between GSTR-3B and GSTR-2A.



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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.

6. In view thereof, the impugned order dated 29.01.2024 is set aside. 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.

7. 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 along with supporting documents/material, within a period of four (4) weeks from the date of receipt of a copy of this order. If any such objections are filed, the same shall be considered by the respondent



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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.

8. Accordingly, the Writ Petition stands disposed of. There shall be no order as to costs. Consequently, WMP Nos.37314 and 37316 of 2024 are closed.

25.11.2024

Index : Yes/No
Neutral Citation : Yes/No
mrn

To
The State Tax Officer
Alagapuram Circle, Salem,
2nd Floor, Integrated Commercial Taxes
Building, Pitchards Road, Hasthampatty,
Salem -636 007.



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<u>**MOHAMMED SHAFFIQ, J.**</u>

**(mrn)**

<u>**WP No.34441 of 2024**</u>

**25.11.2024**



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