IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.34276 of 2024
and
W.M.P. Nos.37131 and 37132 of 2024

Kuppuswamy Kumaresan ... Petitioner

Vs.

The Deputy State Tax Officer-2,
Nanganallur Assessment Circle,
No.571, Integrated Commercial Taxes and
Registration Department (South Tower),
Room No.224, 2nd Floor, Anna Salai,
Nandanam, Chennai-600 035. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records from the file of the Respondent in impugned assessment order in Reference No.ZD3304241402007 in GSTIN33AKZPK8528N1Z6/2018-19 dated 17.04.2024 passed for the F.Y.2018-19 and quash the same as illegal, arbitrary and violative of principles of natural justice.

For Petitioner : Mr.R.Ananth

For Respondent : Ms.Amrita Dinakaran
Government Advocate

ORDER

The present writ petition is filed challenging the impugned order passed by the respondent dated 17.04.2024 relating to the assessment year 2018-19.

2. It is submitted by the learned counsel for the petitioner that the petitioner is registered under the Goods and Services Tax Act, 2017. During the relevant period 2018-19, the petitioner filed its returns and paid the appropriate taxes. However, on examination of the information furnished in GSTR-3B, GSTR-01, GSTR-2A, EWB and other records, it was found that the petitioner had not declared correct tax liability while filing GSTR 3B i.e., net tax under declared due to non-reconciliation of turnovers in other returns and E-way bill information.

3. It is submitted by the learned counsel for the petitioner that a notice in DRC-01 was issued on 27.12.2024, followed by reminders on 01.12.2024, 12.02.2024 and 23.02.2024. However, the petitioner had neither filed its reply nor availed the opportunity for a personal hearing. Thereafter, the impugned order came to be passed confirming the proposal.

4. 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 the notices and orders were uploaded under the "view additional notices and orders" 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 discrepancy.

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,*** to submit that this court has remanded the matter back in similar circumstances subject to payment of 25% of the disputed taxes.

6. 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.

7. In view thereof, the impugned order dated 17.04.2024 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.

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

21.11.2024

Speaking (or) Non Speaking Order
Index : Yes/ No
Neutral Citation: Yes/No
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To:
The Deputy State Tax Officer-2,

Nanganallur Assessment Circle,
No.571, Integrated Commercial Taxes and
Registration Department (South Tower),
Room No.224, 2nd Floor, Anna Salai,
Nandanam, Chennai-600 035.

MOHAMMED SHAFFIQ, J.

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