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**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 27.11.2024**

**CORAM**

**THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ**

**W.P. No.34309 of 2024**

Muzamil N ... Petitioner

Vs.

The Deputy State Tax Officer -I,
Sriperumbudur Assessment Circle,
Station:No.4/109,
Chennai-Bangalore Highway,
Varadharpuram-600123. ... Respondent

**PRAYER**: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records in impugned proceedings in GSTIN/33BTVPM7112A2ZT dated 04.01.2024 on the file of the respondent herein and quash the same.

For Petitioner : Mr.B.Manoharna

For Respondent : Mr.TNC Kavshik
Additional Government Pleader

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**ORDER**

The present Writ Petition is filed challenging the impugned order passed by the respondent dated 04.01.2024 relating to the assessment year 2018-19.

2. The petitioner was engaged in the business of Scrab. The petitioner was a registered dealer under Goods and Services Act, 2017. During the assessment year 2018-2019, the petitioner had filed details of outward supplies in Form GSTR-1 under Section 37 and returns in Form GSTR-3B under Section 39 of the said Act. During inspection conducted under Section 67 of the GST Act, in the business place of the petitioner, it was found that the petitioner had fraudulently availed ineligible input tax credit in as much as the credit of input tax has been availed on the strength of tax invoices or debit notes or any other documents prescribed under Rule 36 issued by the supplier, who had been found to be not conducting any business from any place for which registration has been obtained. Subsequently, a notice was issued in DRC-01A to the petitioner on 16.12.2022 through GST Portal, followed by a Show Cause Notice on 07.03.2023. However, the petitioner had neither filed its reply nor paid the tax amount. Hence, the impugned order came to be passed.

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3. The impugned order is challenged on the premise that neither the show cause notices nor the impugned order of assessment have 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 was unable to participate in the adjudication proceedings.

4. 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. The learned counsel for the petitioner would then 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 they 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 Special Government Pleader appearing for the respondent does not have any serious objection.

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5. In view thereof, the impugned order is set aside and the petitioner shall deposit 25% of the disputed tax 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, i.e., four weeks and four weeks respectively from the date of receipt of a copy of this order, the impugned order of assessment shall stand restored. It was submitted that pursuant to the impugned order of assessment, recovery proceedings were initiated and bank accounts have been attached. In view of the order passed herein, the bank attachment shall be lifted/withdrawn forthwith on complying with the above condition i.e., payment of 25% of disputed taxes within a period of two weeks from the date of receipt of a copy of this order.

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6. Accordingly, the Writ Petition stands disposed of. There shall be no order as to costs. Consequently, W.M.P.Nos.37178 and 37179 of 2024 are closed.

**27.11.2024**

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

To:
The Deputy State Tax Officer -I,
Sriperumbudur Assessment Circle,
Station:No.4/109,
Chennai-Bangalore Highway,
Varadharpuram-600123.

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**MOHAMMED SHAFFIQ, J.**

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**W.P. No.34309 of 2024**

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