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

**DATED : 11.11.2024**

**CORAM**

**THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ**

**W.P. No.33668 of 2024**
**and**
**W.M.P. Nos.36444 and 36447 of 2024**

Tvl.Royal Mobiles and Electronics
Rep. By its Propreitor Ali Razack Abdul Vahid Nassar,
3-4, S.P.Koil Street, Chidambaram,
Cuddalore, Tamil Nadu-608 001. ... Petitioner

Vs.

Deputy State Tax Officer-1 (FAC),
Office of the Deputy Commercial Tax Officer,
Near Court, C.Mutlur, Bye Pass Road,
Chidambaram. ... Respondent

**PRAYER**: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records on the files of the impugned proceedings of the Respondent challenging the impugned order with GSTN:33BRDPR5532B1Z5/2018-19 dated 24.04.2024 vide along with consequential order under Section 73 bearing Ref.No:ZD330424180438C dated 24.04.2024 for the tax period 2018-19, quash the same.

For Petitioner : M/s.Francy Victor

For Respondent : Mr.V.Prashanth Kiran
Government Advocate

**ORDER**

The present writ petition is filed challenging the impugned order dated 24.04.2024 relating to the assessment year 2018-19.

2. The petitioner is a registered dealer under Goods and Services Act, 2017. During the relevant period, the petitioner had filed its return and paid appropriate taxes. On the basis of the scrutiny of returns made under Section 61 of the Act, the following defects were noticed:

i) Tax not paid based on GSTR 2A/2B vs GSTR 3B details.

ii) Penalty liability for outward supplies shortly disclosed.

iii) Levy of interest.

2.1. Subsequently, notice was issued in DRC-01A to the petitioner on 19.12.2023 through GST Portal, followed by a Show Cause Notice on 08.01.2024 and reminders on 29.02.2024, 20.03.2024 and 28.03.2024 and personal hearing notices were issued on 07.03.2024, 26.03.2024 and 04.04.2024. However, the petitioner had neither filed its reply nor availed 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 following are the issues that arise for consideration in the impugned order:

i) Tax not paid based on GSTR 2A/2B vs GSTR 3B details.

ii) Penalty liability for outward supplies shortly disclosed.

iii) Levy of interest.

4.1. It is submitted by the learned counsel for the petitioner that if the petitioner is provided with an opportunity, he would be able to explain the alleged discrepancies.

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

6. In view thereof, the impugned order dated 24.04.2024 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., 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.

7. Accordingly, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

**11.11.2024**

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

To:
Deputy State Tax Officer-1 (FAC),
Office of the Deputy Commercial Tax Officer,
Near Court, C.Mutlur, Bye Pass Road,
Chidambaram.

**MOHAMMED SHAFFIQ, J.**

mka

**W.P. No.33668 of 2024**

**11.11.2024**