IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.33666 of 2024
and
W.M.P. Nos.36443 and 36446 of 2024

M/s.Aruna Clothing Company,
Represented by Balasubramanian Karunakaran,
No.2/16, 2nd Floor, Giri Nagar,
Ramapuram, Chennai-600 089. ... Petitioner

Vs.

The Deputy State Tax Officer-II,
Office of the Commercial Tax Officer,
Avadi Assessment Circle,
No.32, Elephant Gate Bridge Road,
Chennai-600 003. ... 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 file of the respondent in GSTIN:33AHIPK2666F1ZG/2020-21 dated 11.07.2023 and consequential order dated 11.07.2023 in Ref.No.ZD330723041874C under Section 73 of the Act and summary of the order in Ref.No..ZD330723041874C in Form GST DRC07 dated 11.07.2023 and quash the same as being without jurisdiction and against the principles of natural justice.

For Petitioner : Mr.T.Ramesh

For Respondent : Ms.Amrita Dinakaran
Government Advocate

ORDER

The present writ petition is filed challenging the impugned order dated 11.07.2023 relating to the assessment year 2020-21 on the premise that there is violation of principles of natural justice.

2. The petitioner is a dealer in overcoats. 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 a comparison of the returns, the following defects were noticed:

i) Mismatch between GSTR 3B and GSTR 2B and

ii) Mismatch between GSTR 3B and GSTR 2A.

2.1. Subsequently, notice was issued in DRC-01A to the petitioner on 11.07.2022 through GST Portal, followed by a Show Cause Notice on 18.08.2022 and reminder on 25.01.2023. 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 issues that arises for consideration in the impugned order is the alleged mismatch between GSTR-2A and GSTR-3B and GSTR-2B and GSTR-3B. 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 between GSTR-3B and GSTR-2A.

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 11.07.2023 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
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To:
The Deputy State Tax Officer-II,
Office of the Commercial Tax Officer,

Avadi Assessment Circle,
No.32, Elephant Gate Bridge Road,
Chennai-600 003.

MOHAMMED SHAFFIQ, J.

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W.P. No.33666 of 2024

11.11.2024

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