IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.34443 of 2024
and
WMP Nos.37320 and 37321 of 2024

M/s.Maya Electricals,
Represented by its Proprietor, Mr.Mangi Lal : Petitioner

Versus

The State Tax Officer,
Group-VI, Inspection, Intelligence-I,
The Commercial Taxes Building,
PAPJM Building,
Room No.118, First Floor,
No.1, Greams Road,
Chennai-600006. : Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking for a Writ of Certiorarified Mandamus, calling for the assessment order dated 30.04.2024 via DRC 07 in GSTIN/33AAMPM9937C1ZI/2018-2019 (impugned order) issued by the respondent and quash the same as illegal and arbitrary and direct the respondent to remove the recovery notices dated 21.08.2024 and 27.08.2024 and remand back the matter to the respondent and pass orders.

For Petitioner : Mr.A.Dhamodaran

For Respondent :Mr.TNC Kavshik
Additional Government Pleader

ORDER

The present writ petition is filed challenging the impugned order passed by the respondent dated 30.04.2024 relating to the assessment year 2018-19.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in the business of trading and distribution of hardware like switches, sockets, lamp-holders, junction boxes, pipes, lamps, electrical apparatus, etc. and is registered under the Goods and Services Tax Act, 2017. During the relevant period of 2018-19, the petitioner filed its returns and paid the appropriate taxes. However, during the inspection under Section 67 of the Act, of the petitioner's place of business of the monthly return, the following discrepancies were noticed:

i) Mismatch between GSTR 2A and GSTR 3B

ii) Non filing of GSTR9 and GSTR 9C

iii) Tax under Reverse charge mechanism (RCM) not paid for transportation services from GTA

iv) Difference in outward supply turnover in GSTR 3B and balance sheet

iv) Analysis of E-way bill inward supply and outward supply

3. It is submitted by the learned counsel for the petitioner that an intimation in Form DRC-01A was issued on 24.01.2023, followed by a notice in DRC-01 on 23.12.2023 and reminders on 06.03.2024, 11.03.2024 and 19.03.2024. Further, personal hearing was offered on 28.03.2024. However, the petitioner had neither filed its reply nor availed the opportunity for a personal hearing. 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 it had been uploaded in 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 discrepancies.

4. 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.

5. 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 Additional Government Pleader appearing for the respondent does not have any serious objection.

6. In view thereof, the impugned order dated 30.04.2024 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.

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

29.11.2024

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

To
The State Tax Officer,
Group-VI, Inspection, Intelligence-I,
The Commercial Taxes Building,
PAPJM Building,
Room No.118, First Floor,
No.1, Greams Road,
Chennai-600006

MOHAMMED SHAFFIQ, J.

mrn

W.P. No.34443 of 2024

29.11.2024