IN THE HIGHCOURT OF JUDICATURE AT MADRAS

DATED : 27.11.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.34484 of 2024

M/s.Sira Enterprises,
Represented by its Proprietor,
Mr.Haja Sirajudeen,
No.351, Kunnur High Road,
Ayanavaram, Chennai-600 023. ... Petitioner

Vs.

The State Tax Officer,
Ayanavaram Assessment Circle,
No.1, Greams Road, 3rd Floor,
PAPM Annex Building,
Chennai-600 006. ...Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records pertaining to the impugned order passed by the respondent against the petitioner's GSTIN-33ACVPH0350D1ZZ dated 16.08.2024, for the assessment year 2019-2020 and quash the same as illegal and against the principles of natural justice and pass orders.

For Petitioner	:	Mr.K.M.Malarmannan
For Respondent	:	Mr.TNC Kavshik Additional Governmnent Pleader

ORDER

The present writ petition is filed challenging the impugned order in GSTIN-33ACVPH0350D1ZZ dated 16.08.2024, passed by the respondent on the premise that the same was made in violation of principles of natural justice.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in the business of leasing/renting transportation vehicles for movable goods. During the relevant period of 2019-20, the petitioner has filed the returns and paid appropriate taxes. However, on scrutiny of the monthly returns furnished under various heads and also the information furnished in GSTR-01, GSTR-2A, GSTR-3B, EWB and other records available, the following discrepancies were noticed:

i) The excess input tax credit (ITC) claimed on account of non-reconciliation of information.

ii) ITC to be reversed on non-business transactions & exempt supplies.

3. It is submitted by the learned counsel for the petitioner that a notice in DRC 01 was issued on 20.05.2024. Thereafter, opportunties of personal hearing was also granted on 27.05.2024, 26.07.2024 and 12.08.2024, followed by reminders on 23.07.2024 and 06.08.2024. However, the petitioner had not responded to any of the above notices / intimation, the impugned order was thus passed confirming the proposal. 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.

4. The learned counsel for the petitioner would place reliance upon the recent judgment of this Court in the case of **Sree Manoj International Vs. Deputy State Tax Officer in W.P.No.10977 of 2024 dated 25.04.2024**, to submit that this court has remanded the matter back in similar circumstances subject to payment of 10% of the disputed taxes.

5. It was further submitted that the petitioner is ready and willing to pay 10% 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 Additional Government Pleader appearing for the respondent does not have any serious objection.

6. In view thereof, the impugned order dated 16.08.2024 is set aside and the petitioner shall deposit 10% of the disputed tax within a period of four 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 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 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. There shall be no order as to costs. Consequently, W.M.P.Nos.37377 and 37378 of 2024 are closed.

27.11.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
mrn

To

The State Tax Officer,
Ayanavaram Assessment Circle,
No.1, Greams Road, 3rd Floor,
PAPM Annex Building,
Chennai-600 006.

MOHAMMED SHAFFIQ, J.

mrn

W.P.No.34484 of 2024

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