IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.34438 of 2024
and
W.M.P. Nos.37305, 37306, 37308 and 37312 of 2024

Tvl.IVR Hotels and Resorts Ltd.,
Represented by Director Mr.E.C.Theodore Solomon,
No.30A, 6th Cross Street,
TVK Industrial Estate,
Chennai-600 032. ... Petitioner

Presently having Regional office at
Survey Number 419, Aavisa Project,
State Highways 120 (Walajabad Road),
Santhavellur Village, Sunguvarchatiram,
Kanchipuram District-602 106
and registered office at
MIHIR,#8-2-350/5/A/24/1B & 2,
Road No.2, Panchavati Colony, Banjara Hills,
Hyderabad, Telangana-500 034.

Vs.

1.Commercial/ State Tax Officer,
Guindy, South II,
Chennai South, Chennai-35.

2.The Branch Manager,
State Bank of India,
IFSC Code-SBIN0001880
Old MLA Quarters Branch,

Hyderabad Urban,
Andhra Pradesh-500 029.
3.Assistant Commissioner (ST),
Guindy Assessment Circle,
Room No.25, 2nd Floor,
Integrated Commercial Taxes and Registration buildings,
Nandanam, Chennai-600 035. ... Respondents

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 Respondents and quash the order under Section 73 of the Central Goods and Service Tax Act, 2017 ('CGST Act')/ Tamil Nadu Goods and Service Tax Act, 2017('TNGST Act') dated 29.12.2023 along with summary of the order dated 29.12.2023 (Impugned order) both having Reference Number No.ZD331223260616M passed by the 1st Respondent for the year 2017-18 in GSTIN-33AAACI4494F1ZP.

For Petitioner : Mr.N.V.Balaji

For Respondents : Ms.Amrita Poonkodi Dinakaran
Government Advocate (for R1, R3)

ORDER

The present writ petition is filed challenging the impugned order dated 29.12.2023 relating to the assessment year 2017-18.

2. The petitioner is registered under Goods and Services Act, 2017. During the relevant period 2017-18, the petitioner had filed its return and paid appropriate taxes. However, during the scrutiny of the petitioner's monthly

return, the following discrepancies were noticed viz.,

i. Reversal of amount credited in TRAN-1;

ii. Mismatch between GSTR 3B and GSTR 1;

iii. Mismatch between GSTR 3B and 2A.

3. It is submitted by the learned counsel for the petitioner that a Show Cause Notice in DRC-01 was issued on 29.09.2023 followed by reminders on 24.11.2023, 07.12.2023 and 15.12.2023. 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 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. It is submitted by the learned counsel for the petitioner that they have already remitted more than 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 Government Advocate appearing for the respondents does not have any serious objection. However, liberty was sought by the learned counsel for the respondents to verify if the above statement is correct.

5. By consent of both parties, the writ petition stands disposed of on the following terms:

a) The impugned order dated 25.04.2024 is set aside.

b) The petitioner shall deposit 25% of the disputed taxes as admitted by the learned counsel for the petitioner and the respondent, within a period of four weeks from the date of receipt of a copy of this order.

c) If any amount has been recovered or paid out of the disputed taxes, including by way of pre-deposit in appeal, the same would be reduced/adjusted, from/towards the 25% of disputed taxes directed to be paid. The assessing authority shall then intimate the balance amount out of 25 % of disputed taxes to be paid, if any, within a period of one week from the date of receipt of a copy of this order. The petitioner shall deposit such remaining sum within a period of three weeks from such intimation.

d) The entire exercise of verification of payment, if any, intimation of the balance sums, if any, to be paid for compliance with the direction of payment of

25% of the disputed taxes, after deducting the sums already paid and payment by the petitioner of the balance amount, if any, on intimation in compliance with the above direction shall be completed within a period of four weeks from the date of receipt of copy of this order.

e) Failure to comply with the above condition viz., payment of 25% of disputed taxes within the stipulated period i.e., four weeks from the date of receipt of a copy of this order shall result in restoration of the impugned order.

f) If there is any recovery by way of attachment of Bank account or garnishee proceedings, the same shall be lifted /withdrawn on complying with the above condition viz., payment of 25 % of the disputed taxes.

g) 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. It is made clear that if the above conditions viz., 25% of disputed taxes is not complied or objections are not filed within the stipulated period, four weeks respectively from the date of receipt of a copy of this order, the impugned order of assessment shall stand restored.

6. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

18.11.2024

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

To:
1.Commercial/ State Tax Officer,
Guindy, South II,
Chennai South, Chennai-35.

2.The Branch Manager,
State Bank of India, IFSC Code-SBIN0001880
Old MLA Quarters Branch,
Hyderabad Urban, Andhra Pradesh-500 029.

3.Assistant Commissioner (ST),
Guindy Assessment Circle,
Room No.25, 2nd Floor,
Integrated Commercial Taxes and Registration buildings,
Nandanam, Chennai-600 035.

MOHAMMED SHAFFIQ, J.

mka

W.P. No.34438 of 2024

18.11.2024

(½)