IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.11.2024

Coram

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.34050 of 2024
and
W.M.P.Nos.36866 & 36867 of 2024

M/s.Raj Krupa Incorporation
Represented by its Proprietor
Mr.Nitesh Sangvi,
No.3, E.K.Agraharam Street,
Parktown, Chennai - 600 003. ...Petitioner

Vs.

The Deputy State Tax Officer,
Moore Market Assessment Circle,
No.32, Integrated Commercial Taxes Office Complex,
Elephant Gate Bridge Road,
Chennai - 600 003. ... Respondent

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the respondent in order dated 26.12.2023 in GSTN:33AEPPS7502G1ZC/2017-18 and quash the same as illegal, arbitrary and in violation of principles of natural justice.

For Petitioner : Ms.C.Rekha Kumari

For Respondent : Mr.V.Prashanth Kiran
Government Advocate

ORDER

The present Writ Petition is filed challenging the impugned order dated 26.12.2023 passed by the respondent relating to the assessment year 2017-2018.

2. Mr.V.Prashanth Kiran, learned Government Advocate, takes notice on behalf of the respondent. By consent of the parties, the main Writ Petition is taken up for disposal at the admission stage.

3. The petitioner is a dealer in stainless steel and utensils and registered under Goods and Services Act, 2017. During the relevant period, the petitioner had filed its return and paid appropriate taxes. While filing the monthly returns in respect of certain transactions, which according to the petitioner is liable under forward clause and ought to have been entered in Table 4A(3) of GSTR 3B, instead has been wrongly entered in Table 4(A)(5), meant for supply, liable on Reverse Charge Basis.

4. It is submitted by the learned counsel for the petitioner that in response to the notice issued vide reply dated 10.10.2023, the petitioner had

indicated that the above error was due to inadvertence. Whileso, the impugned order has been passed on the premise that the reply is not been supported by any documentary evidence.

5. Mr.V.Prashanth Kiran, learned Government Advocate would submit that whether the evidence, which is submitted is adequate or inadequate sufficient or insufficient or any enquiries are alien under Article 226 of the Constitution of India.

6. In response, the learned counsel for the petitioner submitted that if the petitioner is provided with an opportunity, he would be able to demonstrate that the above is only an error, which occurred due to inadvertence of the petitioner while filing the return.

7. 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 by the learned counsel for the petitioner that the petitioner is ready and willing to pay

25% of the disputed tax and that he may be granted one final opportunity to put forth their objections to the proposal before the adjudicating authority, to which the learned Government Advocate appearing for the respondent does not have any serious objection.

8. In view thereof, the impugned order dated 26.12.2023 is set aside and the petitioner shall deposit 25% of the disputed tax within a period of two (2) 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 revived.

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

18.11.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
jd

To
The Deputy State Tax Officer,
Moore Market Assessment Circle,
No.32, Integrated Commercial Taxes Office Complex,
Elephant Gate Bridge Road,
Chennai - 600 003.

MOHAMMED SHAFFIQ, J.
jd

W.P.No.34050 of 2024

18.11.2024