IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.35188 of 2024
and
W.M.P.Nos.38101 and 38102 of 2024

SVP Engineering Private Limited
Rep by its director,
M.Durgaprasad,
No.112/4, Kaliamman Koil Street,
Virugambakkam, Chennai 600 092. ... Petitioner

Vs.

Assistant Commissioner (ST),
Saligramam Assessment Circle,
3rd extension, Bishop Garden,
Greenways Road, RA Puram, Chennai 600 028. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the impugned order of the respondent passed in GSTIN:33AAGCS0917F1ZP/2018-19 dated 01.04.2024 and quash the same.

For Petitioner : Ms.A.Divya for
Mr.N.Murali

For Respondent : Mr.C.Harsha Raj
Additional Government Pleader

ORDER

The present writ petition is filed challenging the impugned order dated 01.04.2024, passed by the respondent in GSTIN:33AAGCS0917F1ZP/2018-19 on the premise that the same is made in violation of principles of natural justice.

2. It is submitted by the learned counsel for the petitioner that the petitioner is a Jobworker of automobile component and is registered under the GST Act. During the relevant period 2018-19, the petitioner has filed the returns and paid appropriate taxes. However, on scrutiny of return, it was found that there was a discrepancy viz., mismatch between GSTR 3B and GSTR 1.

3. It is submitted by the learned counsel for the petitioner that an intimation in ASMT-10 was issued on 13.12.2021 followed by a notice in Form DRC-01 on 11.08.2022 and reminder notices on 03.02.2024, 09.03.2024 and 17.03.2024. However, the petitioner had not responded to any of the above notices / intimation and the impugned order came to be passed. 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 "view additional notices"

column in 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, he would be able to explain the alleged discrepancy viz., Mismatch between GSTR 3B and GSTR 1.

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 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 01.04.2024 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 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, connected miscellaneous petitions are closed.

21.11.2024

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

To:

Assistant Commissioner (ST),
Saligramam Assessment Circle,
3rd extension, Bishop Garden,
Greenways Road, RA Puram, Chennai 600 028.

MOHAMMED SHAFFIQ, J.

spp

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