IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.34890 of 2024
and
W.M.P. No.37825 and 37826 of 2024

M/s.Jai Anjaneya Traders,
Represented by its Proprietor,
J.Sivakumar
1/555, Maruti Nagar,
Jagadevi Village and Post,
Krishnagiri-635 203. ... Petitioner

Vs.

The Deputy State Tax Officer,
Adjudication and Legal,
Office of the Joint Commissioner (State Taxes),
Intelligence Wing, Hosur,
3/47, Sapthagiri Complex,
Thorapalli Agraham Village,
Hosur-635 109. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the connected records pertaining to the impugned proceedings of the Respondent herein made in Ref:33KAXPS5244B1Z9/2021-22 dated 03.05.2024 and quash the same as illegal.

For Petitioner : Mr.Manoharan S.Sundaram

For Respondent : Mr.TNC.Kaushik

Additional Government Pleader

ORDER

The present writ petition is filed challenging the impugned order passed by the respondent dated 03.05.2024 relating to the assessment year 2021-22.

2. It is submitted by the learned counsel for the petitioner that the petitioner is a registered dealer under the Goods and Services Tax Act, 2017. During the relevant period 2021-22, the petitioner filed its returns and paid the appropriate taxes. However, during the scrutiny of the petitioner's monthly return, it was found that there were certain discrepancies:

i) Mismatch between GSTR 3B vs. GSTR 2A/2B;

ii) Ineligible ITC under Section 17(5) of the TNGST Act, 2017.

3. It is submitted by the learned counsel for the petitioner that a notice in DRC-01 was issued on 16.02.2024. Further, personal hearing notices was offered on 30.03.2024, 08.04.2024 and 16.04.2024. 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 under "view additional notices" tab on 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 03.05.2024 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.

26.11.2024

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

To:
The Deputy State Tax Officer,
Adjudication and Legal,
Office of the Joint Commissioner (State Taxes),
Intelligence Wing, Hosur,
3/47, Sapthagiri Complex,
Thorapalli Agraham Village,
Hosur-635 109.

MOHAMMED SHAFFIQ, J.

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