IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.11.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.34660 of 2024
and
W.M.P.No.37587 & 37588 of 2024

Tvl.Sree Dhanalakshmi Metal Products,
Rep. by Proprietor Vakkesh Kumar
9, Sabapathy Street,
Thirupporur -603110. ...Petitioner

Vs.

The State Tax Officer,
Thirukazhukundram Assessment Circle,
42, Wahab Nagar,
Thirukazhukundram 603 109. .... 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 his proceedings in GSTIN:33ACHPV9871D2Z6/2021-22 dated 26.04.2023 and quash the same as illegal.

For Petitioner : Mr.S.Ramanathan

For Respondent : Mr.T.N.C.Kaushik
Additional Government Pleader

ORDER

The present Writ Petition is filed challenging the impugned order dated 26.04.2023 passed by the respondent relating to the assessment year 2021-2022.

2. Mr.T.N.C.Kaushik, learned Additional Government Pleader 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 itself.

3. The petitioner is a registered dealer in metal products under the CGST/TNGST Act, 2017. During the relevant period, the petitioner had filed its return and paid appropriate taxes. While scrutinizing the petitioner's return, it was found that there was certain discrepancies between GSTR-3B and GSTR-1. Subsequently, intimation notice in Form GST DRC-01A dated 28.10.2022 and show cause notice in Form GST DRC-01 dated 02.02.2023 were issued to the petitioner through GST Portal, followed by two reminder notices dated 23.03.2023 & 13.04.2023 along with an opportunity of personal hearing dated 27.03.2023 and 20.04.2023. However, the petitioner had neither filed its reply nor paid the tax amount. Hence, the impugned order came to be passed confirming the proposals.

4. The limited issue that arises for consideration in the impugned order is the alleged mismatch between GSTR-3B and GSTR-1. 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 between GSTR-3B and GSTR-1.

5. 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 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 26.04.2023 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 restored.

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

22.11.2024

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

To
The State Tax Officer,
Thirukazhukundram Assessment Circle,
42, Wahab Nagar,
Thirukazhukundram 603 109.

MOHAMMED SHAFFIQ, J.
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W.P.Nos.34660 of 2024

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