IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.35025 of 2024

Tvl.City LPG
Represented by its Partner .Chandrasekaran ... Petitioner

Vs.

The Assistant Commissioner,
Tondiarpet:North-II: Chennai North:
Tamil Nadu, State/UT ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the respondent bearing the impugned order bearing reference number ZD330224146588B dated 23.02.2024 passed by the respondent directing the petitioner to pay Rs.14,91,639/- as tax, Rs.14,65,327/- interest and Rs.1,59,160/- penalty totalling to Rs.31,16,126/- and quash the same and pass orders.

For Petitioner : Ms.S.Gayathri
For respondent : Mr.C.Harsha Raj
Additional Government Pleader

ORDER

The present writ petition is filed challenging the impugned order passed by the respondent dated 23.02.2024 relating to the assessment year 2018-19.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in the business of dealer in LPG Gas and is registered under the Tamil Nadu Goods and Services Tax Act, 2017. During the relevant period 2018-19, the petitioner filed its returns and paid the appropriate taxes. However, on examination of the information furnished under various heads and also the information furnished in GSTR-01, GSTR-2A, GSTR-3B, EWB and other records, it was found that the petitioner had not declared correct tax liability while filing the annual returns of GSTR-09 and the following defects were noticed:

i) The excess input tax credit (ITC) claimed on account of non-reconciliation of information.

ii) ITC to be revered on non-business transactions & exempt supplies

iii) Under declaration of ineligible ITC

3. It is submitted by the learned counsel for the petitioner that an intimation in DRC 01A/ASMT-10 was issued on 23.12.2023, followed by a notice in DRC-01 on 23.01.2024. Further, personal hearing was offered on 23.02.2024. The petitioner had appeared in person and filed its reply on 08.02.2024 and 23.02.2024. However, the same was not considered and the impugned order came to be passed. 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 23.02.2024 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, W.M.P.Nos.37978 and 37979 of 2024 are closed.

27.11.2024

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

mrn

To:
The Assistant Commissioner,
Tondiarpet:North-II: Chennai North:
Tamil Nadu, State/UT

MOHAMMED SHAFFIQ, J.

mrn

W.P. No.35025 of 2024

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