IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.11.2024

Coram:

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.34552 of 2024
and W.M.P.Nos.37460 & 37461 of 2024

M/s.GV Engineering Works,
Represented by its Partner, Mr.Ginse AC
S,F.No.23/10,
Kondayampalayam Village,
Annur Taluk,
Coimbatore, Tamil Nadu – 641 110.

...Petitioner

Versus

Deputy State Tax Officer – I,
Annur Circle,
Coimbatore – 18.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records leading the issuance of the assessment order bearing Reference GSTIN:33AAPFG6003N1Z8/2017-18 dated 29.12.2023 passed by the respondent herein and quash the same.

For Petitioner	:	Mr.C.Khathiravan
For Respondent	:	Mr.G.Nanmaran, Special Government Pleader

ORDER

Mr.G.Nanmaran, learned Special Government Pleader takes notice for the respondent.

2. With the consent of both sides, this writ petition is taken up for final disposal at the admission stage itself.

3. The present writ petition has been filed by the petitioner challenging the assessment order dated 29.12.2023 passed by the respondent.

4. The learned counsel for the petitioner submitted that the petitioner is a partnership concern engaged in the business of manufacture and production of store racks and other metal products. The petitioner has been duly filing their returns and paying all the statutory dues. However, on scrutinizing the monthly returns filed by the petitioner in GSTR-1, GSTR-3B & GSTR-2A for the year 2017-18, it was found that there is a mismatch

in returns. Hence, the respondent had issued a Show Cause Notice in Form GST DRC-01 dated 02.09.2023 along with Notice in ASMT-10 dated 21.07.2023, calling upon the petitioner to submit their reply by 14.09.2023. However, the petitioner had not filed their reply or objections to the said notices. Thereafter, the respondent has passed the impugned order of assessment dated 29.12.2023. Both the show cause notice and the impugned assessment order have not been served to the petitioner either by tendering or by way of Registered Post, instead, the same were uploaded in the "Additional Notices/Orders" tab of the GST portal. Hence, the petitioner was unable to reply to the show cause notice and also, unable to participate in the adjudication proceedings. It is also submitted by the learned counsel that if the petitioner is provided with an opportunity, the petitioner would be able to explain the alleged discrepancy.

5. The learned counsel for the petitioner has placed reliance on the order passed by 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 in similar circumstances, this Court has remanded the matter back to the respondent,

subject to the payment of 25% of the disputed tax by the petitioner therein.

6. The learned counsel for the petitioner further submitted that the petitioner is ready and willing to pay 25% of the disputed tax amount and that one final opportunity may be granted to the petitioner to put forth their objections to the proposal before the Adjudicating Authority, to which, the learned Special Government Pleader appearing for the respondent does not have any serious objection.

7. In view thereof, the impugned assessment order dated 29.12.2023 passed by the respondent is set aside on condition that the petitioner shall pay 25% of the disputed tax, within a period of four weeks from the date of receipt of a copy of this order. On complying the said condition, the impugned assessment order shall be treated as Show Cause Notice. The petitioner is directed to file their objections along with supporting documents/material, if any, within a period of four weeks from the date of receipt of a copy of this order. On filing of such objections by the petitioner, the respondent shall consider the same and pass appropriate orders on merits and in accordance with law, after affording a reasonable

opportunity of hearing to the petitioner, as expeditiously as possible. If the deposit is not paid or objections are not filed by the petitioner within the stipulated time as stated above, the impugned assessment order shall stand restored.

8. With the above directions, this writ petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

19.11.2024

mrr

Index : Yes/No

Neutral Citation: Yes/No

Speaking Order (or) Non-Speaking Order

To

Deputy State Tax Officer – I,
Annur Circle,
Coimbatore – 18.

MOHAMMED SHAFFIQ, J.

mrr

W.P.No.34552 of 2024

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