IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.34239 of 2024
and
W.M.P.Nos.37078, 37080 and 37082 of 2024

M/s.Manjilas Food Tech Pvt. Ltd.,
Represented by its Director Mr.Santosh Majila,
TC-16, 1382, Shasthri Rd,
Nellikunnu, Thrissur, Kerala - 680 005.
... Petitioner

Vs.

Assistant Commissioner,
Office of the Assisstant Commissioner of
GST & Central Excise,
Karaikal Division, Central Revenue Building,
Beach Road, Karaikal 609 602. ...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records of the respondent herein bearing Notice in F.No.TRC/51/2024-CGST-DIV-KRKL-COMMRTE-PUDUCHERRY dated 22.10.2024 issued in Form GST DRC 13 by the respondent and to quash the same.

For Petitioner	: Mr.H.S.Hredai
For Respondents	: Mr.Dr.B.Ramaswamy Additional Government Pleader (Pondicherry)

ORDER

The writ petition has been filed challenging the recovery proceedings dated 22.10.2024 on the limited ground that the recovery proceedings have been initiated without disposing of the rectification petition which was filed vide application dated 17.07.2024.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in the business of manufacturing and trading of Rice products and is registered under the GST Act. During the course of Audit it was noticed that there was a discrepancy between GSTR1 and GSTR 3B for the period from February 2019 to March 2022.

3. It is submitted by the learned counsel for the petitioner that an Audit Memo, dated 21.11.2023 was issued citing the above discrepancy. The petitioner had submitted its reply dated 01.12.2023 to the same. Further, show cause notice dated 27.12.2023 was issued which was duly replied to by the petitioner vide letter dated 22.01.2024 along with supporting documents and personal hearing was also attended by the petitioner on 12.03.2024. Thereafter, the order-in-Original dated 17.04.2024 was communicated to the petitioner only through E-

mail on 23.04.2024.The learned counsel for the petitioner also submitted that the Order-in-Original dated 17.04.2024 suffered from apparent errors and the petitioner preferred to file a Rectification petition on 17.07.2024 for rectifying certain errors. Without disposing the same recovery proceedings were initiated against the petitioner by issuing GST DRC 13 dated 22.10.2024.

4. At the outset, the learned counsel for the respondent would submit that the rectification petition would be disposed of within a period of 4 weeks from the date of receipt of copy of this order, until then the recovery proceedings shall be kept in abeyance, subject to the condition that the petitioner remits 10% of the disputed taxes. The same was acceded to by the learned counsel for the petitioners.

5. At this juncture, it is further submitted by the learned counsel for the petitioner that there is bank attachment and the same may be lifted on payment of 10% of the disputed tax, to which, the learned Additional Government Pleader appearing for the respondents does not have any serious objection.

6. In view thereof, the petitioner shall deposit 10% of the disputed tax within a period of four (4) weeks from the date of receipt of a copy of this order.

The recovery proceedings viz., bank attachment will be lifted, subject to the condition that the petitioner remits 10% of the disputed tax within a period of 4 weeks from the date of receipt of copy of this order. On complying with the above condition, the rectification petition dated 17.07.2024 shall be considered by the respondent and orders shall be passed within a period 8 weeks in accordance with law after affording a reasonable opportunity of hearing to the petitioner. If the above deposit is not paid within the stipulated period, i.e., four weeks respectively from the date of receipt of a copy of this order, it is open to the respondent to proceed with recovery proceeding.

7. Accordingly, the Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

14.11.2024

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

To:

Assistant Commissioner,
Office of the Assisstant Commissioner of
GST & Central Excise,
Karaikal Division, Central Revenue Building,
Beach Road, Karaikal 609 602.

MOHAMMED SHAFFIQ, J.

spp

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