IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.35258 of 2024
and
WMP Nos.38161 and 38162 of 2024

M/s.Amar Granite Industries,
rep. By its Partner Amardas : Petitioner

versus

The Assistant Commissioner (ST)
Krishnagiri II Circle,
Krishnagiri 635 001 : Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorari calling for the connected records pertaining to the impugned proceedings of the Respondent in GSTIN 33AATFA0565F1ZK/2021-22 dated 23/01/2024 and QUASH the same as illegal.

For Petitioner : Mr.Manoharan S.Sundaram

For Respondent :Ms.Amrita Dinakaran,
Government Advocate

ORDER

The present writ petition is filed challenging the impugned order passed by the respondent dated 23.01.2024 relating to the assessment year 2021-22.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in the business of supply of Granite slabs and stones and is registered under the Tamil Nadu Goods and Services Tax Act, 2017. During the relevant period of 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 was mismatch between GSTR 3B and GSTR 2A as the petitioner had availed excess input tax credit when compared to the actual tax paid on inward supplies as per the supplier invoice.

3. It is submitted by the learned counsel for the petitioner that an intimation in DRC-01A was issued on 22.05.2023, followed by a notice in DRC-01 on 16.12.2023. Further, personal hearing was offered on 22.01.2024. 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 in 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 Government Advocate appearing for the respondent does not have any serious objection.

6. In view thereof, the impugned order dated 23.01.2024 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.

28.11.2024

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

To

The Assistant Commissioner (ST)
Krishnagiri II Circle,
Krishnagiri 635 001

MOHAMMED SHAFFIQ, J.

mrn

W.P. No.35258 of 2024

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