IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

WP No.34902 of 2024

Tvl.Patel Enterprises,
(GSTIN:33AQOPV9556A1ZF),
No.9/146A, Kottavadi Road,
Athanurpatty, Salem-636115. ... Petitioner

versus

The Assistant Commissioner (ST),
Ayyothiyapattinam Assessment Circle,
Salem. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of Certiorari, calling for the respondent's order dated 18.07.2024 in GSTIN:33AQOPV9556A1ZF/2019-20 and quash the same and pass orders.

For the Petitioner :Mr.Adithya Reddy

For the Respondents :Mr.G.Nanmaran
Special Government Pleader

ORDER

This Writ Petition is filed challenging the proceedings of respondent in GSTIN:33AQOPV9556A1ZF/2019-20, dated 18.07.2024 relating to the assessment year 2019-2020.

2. The petitioner is engaged in the business of trading of nuts and is registered under the GST Act, 2017. During the relevant period of 2019-20, the petitioner has filed the returns and paid appropriate taxes. However, on verification of the monthly returns, it revealed that the petitioner had availed credit in respect of supplies, which were apparently made by bogus dealers. In other words, the petitioner was engaged in bill trading thereby availing and passing on input tax credit illegally without involvement of goods. In view thereof, IGST input tax credit was sought to be reversed in respect of inward supply received from one M/s.Surya Enterprises.

3. It is submitted by the learned counsel for the petitioner that an intimation was issued on 15.09.2023 followed by show cause notices in

DRC 01 A on 05.10.2023 and DRC-01 on 20.05.2024. Thereafter, an opportunity of personal hearing was also granted on 26.06.2024. However, the petitioner had not responded to any of the above notices / intimation, the impugned order was thus passed confirming the proposal. 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 that all the alleged transactions are genuine transactions.

4. The learned counsel for the petitioner would place reliance upon the recent judgment of this Court in the case of **Sree Manoj International Vs. Deputy State Tax Officer in W.P.No.10977 of 2024 dated 25.04.2024**, to submit that this court has remanded the matter back in similar circumstances subject to payment of 10% of the disputed taxes.

5. It was further submitted that the petitioner is ready and willing to pay 10% 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 Special Government Pleader appearing

for the respondent does not have any serious objection.

6. In view thereof, the impugned order dated 18.07.2024 is set aside and the petitioner shall deposit 10% of the disputed tax within a period of four 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 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 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. There shall be no order as to costs. Consequently, WMP Nos.37842 and 37845 of 2024 are closed.

25.11.2024

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

To
The Assistant Commissioner (ST),
Ayyothiyapattinam Assessment Circle,
Salem.

MOHAMMED SHAFFIQ, J.

(mrn)

WP No.39402 of 2024

WP No.34902 of 2024

25.11.2024