**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 29.11.2024**

**CORAM**

**THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ**

**W.P.No.35036 of 2024 and**
**W.M.P.No.37982 and 37983 of 2024**

M/s.Graced Enterprises,
Rep. by its Partner,
Charles Elango John,
Shop No.1, 2, Door No 255,
Plot 89-90, Thirukazhukundram road,
Melamaiyur Village,
Chengalpattu, Kanchipuram,
Tamil Nadu - 603 003. ..Petitioner

Vs.

The State Tax Officer,
Chengalpattu Assessment Circle,
Station:No.16A, 1st Floor, 1st Main Road,
Anna Nagar, Chengalpattu - 603 001. ..Respondent

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorari, to call for the impugned order, dated 27.04.2024 in Order No.GSTIN:33AALFG7703P1ZZ/2017-18 issued by the respondent and quash the same as illegal and arbitrary.

For Petitioner : Mr.S.Prabakaran
For Respondent : Ms.Amrita Dinakaran
Government Advocate

**ORDER**

The present Writ Petition is filed challenging the impugned order passed by the respondent dated 27.04.2024 relating to the assessment year 2017-18.

2. The petitioner is engaged in the business of whole sale and retail trading of groceries. The petitioner is a registered dealer under Goods and Services Act, 2017. During the relevant period, the petitioner had filed its return and paid appropriate taxes. While scrutinizing the petitioner's return, the following discrepancies were noticed:

i) Mismatch between GSTR 3B and GSTR 2A

ii) Interest and penalty levied under Section 73 of TNGST Act 2017

2.1. It is submitted by the learned counsel for the petitioner that a notice was issued in ASMT 10, through GST Portal, followed by a notice in DRC-01A to the petitioner on 22.08.2023. The petitioner was issued with a Show Cause Notice on 23.12.2024 and reminders on 30.01.2024, 14.02.2024 and 02.03.2024. Further, personal hearing was offered on 20.03.2024. However, the petitioner had neither filed its reply nor availed the opportunity for a personal hearing. Hence, 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.

3. 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***. It was further submitted that the petitioner is ready and willing to pay 25% 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 Government Advocate appearing for the respondent does not have any serious objection.

4. By consent of parties, the writ petition stands disposed of on the following terms:

a) The impugned order dated 27.04.2024 is set aside

b) The petitioner shall deposit 25% of the disputed taxes as admitted by the learned counsel for the petitioner and the respondent, within a period of four weeks from the date of receipt of a copy of this order.

c) If any amount has been recovered or paid out of the disputed taxes, including by way of pre-deposit in appeal, the same would be reduced from the 25% of disputed taxes directed to be paid. The assessing authority shall then intimate the balance amount out of 25 % of disputed taxes to be paid within a period of one week from the date of receipt of a copy of this order. The petitioner shall deposit such remaining sum within a period of three weeks from such intimation.

d) The entire exercise of verification of payment, if any, intimation of the balance sums to be paid for compliance of the direction of 25% of the disputed taxes after deducting the sums already paid and payment by the petitioner of the balance amount on intimation in compliance of the above direction shall be completed within a period of four weeks from the date of receipt of copy of this order.

e) Failure to comply with the above condition viz., payment of 25% of disputed taxes within the stipulated period i.e., four weeks from the date of receipt of a copy of this order shall result in restoration of the impugned order.

f) If there is any recovery by way of attachment of Bank account or garnishee proceedings, the same shall be lifted /withdrawn on complying with the above condition viz., payment of 25 % of the disputed taxes.

g) 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 (4) 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. It is made clear that if the above conditions viz., 25% of disputed taxes is not complied or objections are not filed within the stipulated period, four weeks respectively from the date of receipt of a copy of this order, the impugned order of assessment shall stand restored.

5. Accordingly, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

**29.11.2024**

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

To
The State Tax Officer,
Chengalpattu Assessment Circle,
Station:No.16A, 1st Floor, 1st Main Road,
Anna Nagar, Chengalpattu - 603 001.

**MOHAMMED SHAFFIQ, J.**

mrn

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