IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.11.2024

Coram:

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.34593 of 2024
and W.M.P.Nos.37516 & 37518 of 2024

Shadowfax Technologies Private Limited,
Represented by its Director Mr.Vaibhav Khandelwal
625/501, 6th Floor, Teynampet,
JVL Plaza, Anna Salai, Sathy Murthy Nagar,
Chennai – 600 035.

...Petitioner

Versus

Assistant Commissioner (ST),
Alwarpet Assessment Circle,
Integrated Registration and
Commercial Tax Building,
2nd Floor, Nandanam, Chennai – 600 035.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records of the respondent and quash the impugned order passed under Section 73 of the Tamil Nadu Goods and Service Tax Act, 2017/Central Goods and Service Tax Act, 2017 in GSTIN: 33AAVCS6697K1ZA dated 31.08.2024 along with Summary of the order in GST DRC-07 dated 31.08.2024 both having Reference No.ZD330824308834A (Impugned Order) for the F.Y.2019-20 along with its annexure dated 31.08.2024 in GSTIN:33AAVCS6697K1ZA/2019-20 passed by the respondent.

For Petitioner	:	Ms.N.V.Lakshmi
For Respondent	:	Mr.TNC.Kaushik, Additional Government Pleader

ORDER

Mr.TNC.Kaushik, learned Additional 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 impugned order dated 31.08.2024 on the limited ground that the respondent has proceeded to confirm the proposal on the premise that no documentary evidence has been filed in support of petitioner's contentions in respect of Point Nos.1 to 7 and Slip No.9 to 12 & 14, contrary to the material on record and thus, suffers from the vice of non-application of

mind.

4. The learned counsel for the petitioner submitted that the petitioner company is registered under the CGST Act, 2017 & TNGST Act, 2017. The petitioner has been duly filing their returns and paying all the statutory taxes. However, on verification of petitioner's Books of Accounts, following discrepancies were found:

(i) Difference between turnover reported in GSTR-1 & GSTR-3B

(ii) Difference between outward supply turnovers reported in GSTR-3B and GSTR-9

(iii) Details requested regarding the adjustments turnover in GSTR 9C

(iv) Credit note turnover Reported in GSTR-1 and GSTR-9

(v) Tax not paid inward (Reverse Charge) Supply

(vi) ISD Credit incorrectly availed by the recipients

(vii) The tax on outward supplies under declared on reconciliation of data in GSTR-09

(viii) Excess Claim of ITC

(ix) Other Expenses (According to the Balance Sheet it is not limited to Tamilnadu)

(x) Trade payable

(xi) Ineligible ITC

(xii) Detail of GST paid in addition and deletion of assets furnished in Financial Statement for the period from 2019-20

(xiii) Excess ITC availed

(xiv) GST liability on Director's remuneration under RCM reported in Audited Balance Sheet for the year 2019-2020

In view of the above discrepancies, the Assistant Commissioner (State Taxes), Broadway Assessment Circle, had issued the Show Cause Notice in Form GST DRC-01 dated 28.05.2024 to the petitioner. In response to the said show cause notice, the petitioner had filed their detailed Objection dated 29.05.2024 along with the documentary evidences. As a matter of fact, in Column No.7 which provides for Documents indicated that the documents have been annexed by way of e-mail.

5. The learned counsel for the petitioner also drew the attention of this Court to the e-mail dated 27.05.2024 sent by the petitioner to the Assistant Commissioner (State Taxes), Broadway Assessment Circle, which

reads as under:

> *"Dear Sir/Madam,*
> *Thank you so much for granting us the additional time. Please find the attached our response to audit observation memo along with the supporting documents for your reference for the audit queries raised for FY 2019-20. Data is being shared each year separately over e-mail due to the size limit for uploading GST data on the portal.*
> *Kind regards,*
> *Shadowfax"*

Again, the petitioner had forwarded the above message vide e-mail dated 28.05.2024 and thereafter, sent another e-mail dated 02.06.2024 in this regard. However, without considering the same, the respondent has passed the impugned order dated 31.08.2024, stating that the petitioner did not file any documentary evidence in support of their contention. The relevant portion of the impugned order is extracted hereinbelow:

> *"In regard of Point No.1 to 7 and Slip No.9 to 12, 14, the taxpayer has not filed any documentary for their contention. Hence, the taxpayer are liable to be paid the proposed tax along with applicable interest under Section 50 together with penalty under Section 73 of the TNGST Act."*

The learned counsel for the petitioner would submit that the impugned proceedings stands vitiated for non-application of mind to the material on record.

6. The learned Additional Government Pleader appearing for the respondent submitted that the respondent would re-do the assessment. He also submitted that in view of the fact that the documents are voluminous, hard/physical copies of the documents which are sought to be relied upon by the petitioner may be furnished before the respondent.

7. The learned counsel for the petitioner has also agreed to furnish the hard/physical copies of the documents relied upon by the petitioner.

8. In view thereof, the impugned order dated 31.08.2024 is set aside. The petitioner shall treat the impugned assessment order as Show Cause Notice and submit their reply/objections along with supporting documents/material, if any, within a period of two weeks from the date of receipt of a copy of this order. On filing of such reply/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 reply/objections are not filed by the petitioner within the stipulated time as stated above, the impugned assessment order shall stand restored.

9. 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

Assistant Commissioner (ST),
Alwarpet Assessment Circle,
Integrated Registration and
Commercial Tax Building,
2nd Floor, Nandanam, Chennai – 600 035.

MOHAMMED SHAFFIQ, J.

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