IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.35767 of 2024
and
WMP Nos.38637 and 38639 of 2024

Tvl.S S Enterprises Electricals
Rep. by its Proprietor Amutha Selvaraju : Petitioner

versus

The STATE TAX OFFICER 1
Office of Joint Commissioner (ST)
Chengalpattu Intelligence,
No. 870/2A, 1st Floor, Kanchipuram High Road,
Thimmavaram Post, Chengalpattu- 603 101. : Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking for a Writ of Certiorari calling for the records relating to the impugned Assessment Order dated 19.07.2024 bearing GSTIN. No. 33AGRPA3240P1ZA /2020-2021 passed by respondent quash both the as arbitrary

For Petitioner : Mr.Abdul Rahman

For Respondent :Ms.Amrita Dinakaran,
Government Advocate

ORDER

The present writ petition is filed challenging the impugned order Order GSTIN. No. 33AGRPA3240P1ZA /2020-2021, dated 19.07.2024 passed by the respondent on the premise that the same was made in violation of principles of natural justice.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in works contract and dealer in electrical transformers, static converters and is registered under the GST Act. During the relevant period of 2020-21, the petitioner has filed the returns and paid appropriate taxes. Based on the authorization issued by the Joint Commissioner (ST)Intelligence-I, the petitioner's place of business was inspected. During the course of such inspection, the following discrepancies were noticed:

Particulars	***Act***	***2020-21***
Credit notes for the year 2020-21	CGST SGST IGST	71,511 71,511
Supplies to SEZs on payment of tax reported in GSTR-9	CGST SGST IGST	22,898 22,898
Supplies to SEZs without payment of tax reported in GSTR-9	CGST SGST IGST	1,593 1,593
Difference between ITC Table 8A and 8B in GSTR 9	CGST	1,52,158

Particulars	***Act***	***2020-21***
	SGST IGST	1,52,158
Excess claim of Input Tax Credit (3B vs 2A)	CGST SGST IGST	3,74,312 3,74,312
Difference in Tax liability between GSTR 3B and GSTR1	CGST SGST IGST	70,784 70,784
Blocked credit u/s 17(5)	CGST SGST IGST	26,841 26,841
Total		14,40,195

3. It is submitted by the learned counsel for the petitioner that an intimation in DRC 01A was issued on 14.09.2023, followed by a show cause notice in Form DRC 01 on 27.12.2023 and reminders on 12.02.2024, 17.02.2024 and 22.02.2024. Further personal hearing was offered on 10.04.2024. The petitioner had filed its reply on 17.04.2024, however, the impugned order was passed on the premise that the petitioner had not produced documents in support of its contention. 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 the discrepancies.

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 Government Advocate appearing for the respondent does not have any serious objection.

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

a) The impugned order dated 19.07.2024 is set aside

b) The petitioner shall deposit 10% 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/adjusted, from/towards the 10% of disputed taxes directed to be paid. The assessing authority shall then intimate the balance amount out of 10 % of disputed taxes to be paid, if any, 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, if any, to be paid for compliance with the direction of payment of 10% of the disputed taxes, after deducting the sums already paid and payment by the petitioner of the balance amount, if any, 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 10% 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 10 % 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., 10% 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.

7. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

05.12.2024

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

To

The STATE TAX OFFICER 1
Office of Joint Commissioner (ST)
Chengalpattu Intelligence,
No. 870/2A, 1st Floor, Kanchipuram High Road,
Thimmavaram Post, Chengalpattu- 603 101.

MOHAMMED SHAFFIQ, J.

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