IN THE HIGHCOURT OF JUDICATURE AT MADRAS

DATED : 20.11.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.34658 of 2024
and
W.M.P.No.37584 and 37864 of 2024

TVL.Puppy Plastics,
Rep. by its Proprietor Mr.J.Raja,
No.2/297, Kannappan Street,
Chrompet Salai, Nanmangalam,
Chennai 117.

... Petitioner

Vs.

1. The Deputy State Tax Officer,
   Chrompet Assessment Circle,
   336, 3rd Floor, Nandanam,
   Chennai 600 035.

2. The Branch Manager,
   Syndicate Bank,
   No.3, Medavakkam Main Road,
   Keelkattalai, Chennai 600 117.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records in the files of the respondent in GSTIN:33CFZPR6926N1ZA/2019-20 dated 28.06.2024 and quash the same.

For Petitioner : Mr.D.Vijayakumar

For Respondents : Mr.G.Nanmaran
Special Government Pleader

ORDER

The present writ petition is filed challenging the impugned order dated 28.06.2024, passed by the 1st respondent in GSTIN:33CFZPR6926N1ZA/2019-20 on the premise that the same is 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 the business of distribution and trading of household plastic goods. The petitioner is registered under the GST Act. During the relevant period of 2019-20, the petitioner has filed the returns and paid appropriate taxes under GST Act. However, on examination of the information furnished in the return, mismatch between GSTR 3B and GSTR 2A was noticed.

3. Pursuant thereto, a notice in Form ASMT-10 was issued on 19.05.2022 followed by a show cause notice in DRC01 was issued on

23.06.2023. Reminders for personal hearing on 24.08.2023, 25.03.2024 and 07.06.2024 were issued thereafter. However, the petitioner failed to respond to any of the above notices / intimation and the impugned order came to be passed. 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. The petitioner was thus unaware of the impugned 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, he would be able to explain the alleged discrepancy viz., mismatch between GSTR 3B and GSTR 2A.

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 submitted by the learned counsel for the petitioner 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, which was agreed to by the learned counsel for the respondent.

6. It is submitted by the learned counsel for the petitioner that 25% of the disputed taxes works out to Rs.1,40,194/-, the petitioner had already remitted a sum of Rs.60,000/- subsequent to the orders of assessment and would request that the same may be taken into account while calculating the 25% of taxes directed to be paid.

7. It is submitted by the learned counsel for the petitioner that the bank account has been attached and that unless the attachment is lifted they will not be in a position to comply with the condition. In view thereof, the bank attachment would be lifted forthwith after recovery of Rs.80,194/- in case the statement of the petitioner that Rs.60,000/- has been remitted / recovered already is correct, else after recovering 25% of the disputed tax from the bank account which is attached. In case the money in the account attached is

insufficient the petitioner would remit 25% of the disputed taxes within 2 weeks from the date of receipt of a copy of this order.

8. In the circumstance, the impugned order dated 28.06.2024 is set aside. On complying with the above condition viz., payment of 25% of the disputed taxes within two weeks from the date of receipt of 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., two weeks and four weeks respectively from the date of receipt of a copy of this order, the impugned order of assessment shall stand restored.

9. Accordingly, the Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

20.11.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
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To:

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MOHAMMED SHAFFIQ, J.

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