IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.34987 of 2024
and
W.M.P.Nos.37939 and 37940 of 2024

Tvl.Sri Vigneshwara Batteries,
Represented by its proprietrix,
Mrs.Tamilselvi Suresh,
No.174, Golden George Nagar,
Nerkundram,
Chennai, Tamil Nadu 600 017. ..Petitioner

Vs.

1.The Assistant Commissioner (ST),
JJ Nagar Assessment Cirlce,
Greams Road,
Chennai 600 006.

2.The State Tax Officer (ST),
JJ Nagar Assessment Circle,
Room No.333, 3rd Floor, Nandanam,
Chennai 35. ..Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorari to call for the records on the files of the second respondent herein GSTIN: 33BACPS5957H1Zf/2018-2019 dated 12.01.2024 and quash the same.

For Petitioner : Mr.A.N.R.Jayaprathap

For Respondents : Mr.V.Prashanth Kiran,
Government Advocate.

ORDER

The present writ petition is filed challenging the impugned order passed by the respondent dated 12.01.2024 relating to the assessment year 2018-19.

2. The petitioner is engaged in the business of trading activities in batteries and is a registered dealer under the Goods and Services Act, 2017. During the relevant period, the petitioner filed its return and paid the appropriate taxes. However, during the scrutiny of the petitioner's return, it was found that there was excess claim of Input Tax Credit over and above that of the tax paid under Reverse Charge Mechanism. Subsequently, a Show Cause Notice was issued to the petitioner in Form DRC-01 on 31.10.2023. A personal hearing was offered on 15.11.2023. However, the petitioner had neither filed its reply nor availed the opportunity for a personal hearing. Hence, the impugned order came to be passed, confirming the proposal.

3. The impugned order is challenged on the premise that the notices and orders were uploaded under the “view additional notices and orders” tab on the GST Portal, thereby, the petitioner was unaware of the initiated proceedings and thus unable to participate in the adjudication proceedings.

4. 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. The learned counsel for the petitioner would then 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 they 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 respondents does not have any serious objection.

5. In view thereof, the impugned order is set aside and the petitioner shall deposit 25% of the disputed tax within a period of four (4) 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 (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 respondents 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 and four weeks respectively from the date of receipt of a copy of this order, the impugned order of assessment shall stand restored.

6. Accordingly, the writ petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

20.11.2024

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

To

1.The Assistant Commissioner (ST),
JJ Nagar Assessment Cirlce,
Greams Road,
Chennai 600 006.

2.The State Tax Officer (ST),
JJ Nagar Assessment Circle,
Room No.333, 3rd Floor, Nandanam,
Chennai 35.

MOHAMMED SHAFFIQ, J.

shk

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