IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.35343 of 2024
and
WMP Nos.38222, 38223 of 2024

M/s.Crescent Cashew Exports,
rep. By its Proprietor, Bradep Raj : Petitioner

versus

The State Tax Officer (Intelligence)
(Inspection III) Office of Cuddalore,
Joint Commissionerate (ST) Intelligence,
Cuddalore Division, Cuddalore : Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus to call for the records relating to the impugned order dated 29.06.2024 vide Reference No.ZD3306243628629 in Form GST DRC-07 bearing GSTIN 33BMQPB4784H1ZU pertaining to FY. 2018-19 issued by the respondent as arbitrary and illegal and quash the same and further direct the respondent to redo the adjudication in accordance with law after granting opportunity of personal hearing to petitioner.

For Petitioner : Mr.B.Mitra

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

ORDER

The present writ petition is filed challenging the impugned order passed by the respondent dated 29.06.2024 relating to the assessment year 2018-19.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in the business of retail and wholesale and is registered under the Goods and Services Tax Act, 2017. During the relevant period of 2020-21, the petitioner filed its returns and paid the appropriate taxes. However, during the inspection of the petitioner's place of business under Section 67 of the Act, on examining the books, records and documents, it was found that there was mismatch between GSTR-3B and GSTR-2A.

3. It is submitted by the learned counsel for the petitioner that an intimation in DRC-01A was issued on 14.12.2023, followed by a notice in DRC-01 on 30.12.2023. Further, personal hearings were offered on 22.02.2024 and 10.06.2024. However, the petitioner had not availed the opportunity for personal hearings. The petitioner had filed its reply on 05.03.2024 and 05.04.2024, which were considered and rejected on the premise that the petitioner had not filed any documentary evidence in support of their contention. 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.

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 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 respondent does not have any serious objection.

6. In view thereof, the impugned order dated 29.06.2024 is set aside and the petitioner shall deposit 25% of the disputed tax within a period of four weeks from the date of receipt of a 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., four weeks from the date of receipt of a copy of this order, the impugned order of assessment shall stand restored.

7. Accordingly, the Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

28.11.2024

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

To
The State Tax Officer (Intelligence)
(Inspection III) Office of Cuddalore,
Joint Commissionerate (ST) Intelligence,
Cuddalore Division, Cuddalore

MOHAMMED SHAFFIQ, J.

mrn

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