IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.35789 of 2024

Tvl. Arumugasamy Alloy Metal Suppliers,
Represented by its Proprietor, Mrs.Mayil.S. ... Petitioner

Vs.

The Deputy State Tax Officer-2,
Saravanampatti West Circle,
Coimbatore-18. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the respondent's order dated 08.05.2024 in GSTIN:33AWWPM5204C1ZN/2017-2018 and quash the same and pass orders.

For Petitioner : Mr.Aditya Reddy

For respondent : Mr.G.Nanmaran
Special Government Pleader

ORDER

The present writ petition is filed challenging the impugned order passed by the respondent dated 08.05.2024 relating to the assessment year 2017-18.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in the business of trading meals and is registered under the Tamil Nadu Goods and Services Tax Act, 2017. During the relevant period of 2017-18, the petitioner filed its returns and paid the appropriate taxes. However, during investigation, it was found that the petitioner had fraudulently passed on ITC credit and engaged in bill trading without any actual supply of goods. Further, there was no outward supply of materials/goods instead only invoices were traded for a commission and records are created to camouflage the fraudulent issue of invoices.

3. It is submitted by the learned counsel for the petitioner that an intimation in DRC-01A was issued on 16.05.2023, followed by a notice in DRC-01 on 12.09.2023. Further, personal hearings were offered on 11.10.2023, 02.11.2023, 22.11.2023, 21.12.2023 and reminders on 27.10.2023, 15.11.2023 and 16.12.2023. However, the petitioner had neither filed its reply nor availed the opportunity for a personal hearing. 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, thereby, the petitioner was unaware of the initiated 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, 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 Special Government Pleader appearing for the respondent does not have any serious objection.

6. In view thereof, the impugned order dated 08.05.2024 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, W.M.P.Nos.38658 and 38660 of 2024 are closed.

29.11.2024

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

To:
The Deputy State Tax Officer-2,
Saravanampatti West Circle,
Coimbatore-18.

MOHAMMED SHAFFIQ, J.

mrn

W.P. No.35789 of 2024

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