IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.35477 of 2024
and
W.M.P.Nos.38373 and 38374 of 2024

Tvl.Karthiga Traders,
GSTIN:33AIZPJ7698A2ZO,
Represented by its proprietor Shri Jayaprakash,
189, Bharathiyar Road,
Maniyakaram Palayam Road,
Ganapathy, Coimbatore 641 006. ..Petitioner

Vs.

The State Tax Officer,
Saravanampatti (West) Circle, Commercial Tax Building,
Dr.Balasundaram Road, Coimbatore 641 018. ..Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorari call for the records pertaining to the impugned order in FORM GST DRC-07 Reference No : ZD330923123079F / 2018-19 dated 20.09.2023 issued by the Respondent and quash the same.

For Petitioner : Mr.G.Derrick Sam

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

ORDER

The present writ petition is filed challenging the impugned order passed by the respondent dated 20.09.2023 relating to the assessment year 2018-19.

2. The petitioner is registered under the Goods and Services Act, 2017. During the relevant period, the petitioner filed its return and paid the appropriate taxes. However, on verification of the petitioner's return, it was found that there were discrepancies between GSTR-01 and GSTR-3B and between the GSTR-2A and GSTR-3B. Subsequently, a notice was issued to the petitioner in ASMT-10 dated 10.12.2021, followed by series of notices on 17.08.2022 and 11.01.2023. Further, personal hearing was offered on 03.03.2023, 05.04.2023 and 20.04.2023. 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 neither the show cause notices nor the impugned order of assessment have been served by tendering to the petitioner or by registered post, instead it was uploaded in the common portal. It was further submitted that the petitioner was unable to access the common portal and thus was 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 respondent 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 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 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.

22.11.2024

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

To

The State Tax Officer,
Saravanampatti (West) Circle, Commercial Tax Building,
Dr.Balasundaram Road, Coimbatore 641 018.

MOHAMMED SHAFFIQ, J.

shk

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