IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.35937 of 2024
and
WMP Nos.38822 and 38823 of 2024

M/s Maya Electricals
Rep by its Prop Mr Mangi Lal : Petitioner

versus

The State Tax Officer,
Group VI Inspection, Intelligence I,
Commercial Taxes Building,
PAPJM Building,
Room No.118, First Floor,
No.1, Greams Road, Chennai 6 : Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking for a Writ of Certiorarified Mandamus calling for the Assessment Order dated 29-05-2024 via DRC 07 in GSTIN/33AAMPM9937C1ZI/2022-23 (Impugned Order) issued by the respondent and quash the same as illegal and arbitrary and direct the respondent to remove the recovery notices dated 21-08-2024 dated 27-08-2024 and remand back the matter to respondent.

For Petitioner : Mr.Damodaran, A.

For Respondent :Mr.TNC Kaushik,
Additional Government Pleader

ORDER

The present writ petition is filed challenging the impugned order passed by the respondent dated 29.05.2024 relating to the assessment year 2022-23.

2. It is submitted by the learned counsel for the petitioner that the petitioner is a trader and distributor of hardware like switches, sockets, lamp-holders, junction boxes, pipes, lamps, electrical apparatus etc. and is registered under the Tamil Nadu Goods and Services Tax Act, 2017. During the relevant period of 2022-23, the petitioner filed its returns and paid the appropriate taxes. On inspection by the Joint Commissioner (ST), Chennai Intelligence I, of the place of petitioner's business, it was found that there were cancellation of E-way bills, without assigning any proper reason.

3. Pursuant thereto an intimation in Form DRC-01A was issued on 24.01.2023, followed by a notice in DRC-01 on 15.02.2024 and reminders 06.03.2024 and 11.03.2024. Further, personal hearing was offered on 28.03.2024. On 28.03.2023, the petitioner had appeared before the proper officer and sought for time. However, no further documents were submitted by the petitioner. Hence, the impugned order came to be passed. 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 Additional Government Pleader appearing for the respondents does not have any serious objection.

6. By consent of parties, the writ petition stands disposed of on the following terms:

a) The impugned order dated 29.05.2024 is set aside

b) The petitioner shall deposit 25% of the disputed taxes as admitted by the learned counsel for the petitioner and the respondent, within a period of four weeks from the date of receipt of a copy of this order.

c) If any amount has been recovered or paid out of the disputed taxes, including by way of pre-deposit in appeal, the same would be reduced/adjusted, from/towards the 25% of disputed taxes directed to be paid. The assessing authority shall then intimate the balance amount out of 25 % of disputed taxes to be paid, if any, within a period of one week from the date of receipt of a copy of this order. The petitioner shall deposit such remaining sum within a period of three weeks from such intimation.

d) The entire exercise of verification of payment, if any, intimation of the balance sums, if any, to be paid for compliance with the direction of payment of 25% of the disputed taxes, after deducting the sums already paid and payment by the petitioner of the balance amount, if any, on intimation in compliance of the above direction, shall be completed within a period of four weeks from the date of receipt of copy of this order.

e) Failure to comply with the above condition viz., payment of 25% of disputed taxes within the stipulated period i.e., four weeks from the date of receipt of a copy of this order shall result in restoration of the impugned order.

f) If there is any recovery by way of attachment of Bank account or garnishee proceedings, the same shall be lifted /withdrawn on complying with the above condition viz., payment of 25 % of the disputed taxes.

g) 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. It is made clear that if the above conditions viz., 25% of disputed taxes is not complied or objections are not filed within the stipulated period, four weeks respectively from the date of receipt of a copy of this order, the impugned order of assessment shall stand restored.

7. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

05.12.2024

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

To
The State Tax Officer,
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MOHAMMED SHAFFIQ, J.

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