



WEB COPY



W.P. No.35357 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.35357 of 2024

and

W.M.P.Nos.38235 and 38237 of 2024

Tamil Nadu Agro Service,
Represented by its partner Sri.Kandasamy Ramasamy,
146/34, Kamarajanar Road,
Pudupet, Salem 636 141.

... Petitioner

Vs.

The State Tax Officer,
Attur (Town) Circle,
Attur.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records on the file of the 1st respondent herein in GSTIN/33AAAF7753P1ZN/2022-23 dated 03.11.2023 and quash the same.

For Petitioner : Mr.N.Chandirasekar

For Respondent : Mr.G.Nanmaran
Special Government Pleader



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ORDER

The present writ petition is filed challenging the impugned order dated 03.11.2023, passed by the respondent in GSTIN:33AAAFT7753P1ZN on the premise that the same is made in violation of principles of natural justice.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in business of ginning of cotton and is registered under the GST Act. During the relevant period of 2022-23, the petitioner has filed the returns and paid appropriate taxes. However, on scrutiny of return, it was found that there was a discrepancy viz., mismatch between GSTR 2A and GSTR3B.

3. It is submitted by the learned counsel for the petitioner that a notice in Form DRC01 was issued on 28.03.2023. However, the petitioner had not responded to any of the above notices / intimation and the impugned order came to be passed. 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 "view additional notices" column in 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



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petitioner that if the petitioner is provided with an opportunity, he would be able to explain the alleged discrepancy viz., Mismatch between GSTR 2A and GSTR3B.

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. It is further submitted that there is bank attachment and the same may be lifted, to which, the learned Special Government Pleader appearing for the respondent does not have any serious objection.

5. It was further submitted that the petitioner is ready and willing to pay 25% of the disputed tax and that he 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 03.11.2023 is set aside and



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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 respectively from the date of receipt of a copy of this order, the impugned order of assessment shall stand restored. In view of the order passed herein, bank attachment if any shall be lifted forthwith on complying the above condition i.e., payment of 25% of disputed taxes within a period of four weeks from the date of receipt of a copy of this order.

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

21.11.2024

Speaking (or) Non Speaking Order

Index : Yes/ No

Neutral Citation: Yes/No

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To:

The State Tax Officer,
Attur (Town) Circle,
Attur.



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MOHAMMED SHAFFIQ, J.

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