IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.35667 of 2024

Tvl.Metal King Agencies
Represented by its Proprietor Mr.Nahu Cinar Chellatambi,
2/507, Thillagar Street,
M.A. Nagar, Red Hills,
Tiruvallur, Chennai-600052. ... Petitioner

Vs.

The State Tax Officer/Commercial Tax Officer,
Cholavaram Assessment Circle,
Integrated Commercial Taxes Building,
Elephant Gate Bridge Road,
Vepery, Chennai-600003. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records of the respondent in GSTIN:33ACWPC1759N1Z3/2018-19 and consequential order under Section 73 and Summary of the order in Form GST DRC-07 bearing Reference No.ZD330424207069N dated 26.04.2024 and quash the same as it has been passed in gross violating of principles of natural justice and not in conformity with the principles laid by the decision of the this Court in the case of JAK Communication vs The Deputy Commercial Tax Officer and Ors. (WP No.35453 of 2023 dated 19.12.2023) and pass orders.

For Petitioner : Mr.Rupesh Sharma

For Respondent : Ms.Amrita Dinakaran
Government Advocate

ORDER

The present Writ Petition is filed challenging the impugned order passed by the respondent dated 26.04.2024 relating to the assessment year 2018-19.

2. The petitioner is engaged in the business of manufacturing rolling shutters. The petitioner is a registered dealer under Goods and Services Act, 2017. During the relevant period, the petitioner had filed its return and paid appropriate taxes. While scrutinizing the petitioner's return, it was found that the petitioner had generated multiple e-ways bills for the same invoice number. Subsequently, notice was issued in DRC-01A to the petitioner on 07.12.2023 through GST Portal, followed by a Show Cause Notice on 16.12.2023 and opportunity of personal hearing was also granted. However, the petitioner had neither filed its reply nor availed of the opportunity of personal hearing given to him. Hence, the impugned order came to be passed.

3. The impugned order is challenged on the premise that the notices and orders were uploaded under the "view additional notices and orders" tab on the GST Portal, thereby, the petitioner was unaware of the initiated proceedings and thus unable to participate in the adjudication proceedings.

4. The limited issue that arises for consideration in the impugned order is the alleged multiple e-ways bills for the same invoice number. It is submitted by the learned counsel for the petitioner that if the petitioner is provided with an opportunity, he would be able to explain the alleged discrepancies.

5. 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***. 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 Government Advocate appearing for the respondent does not have any serious objection.

6. In view thereof, the impugned order dated 26.04.2024 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.

7. Accordingly, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

25.11.2024

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

mrn

To:
The State Tax Officer/Commercial Tax Officer,
Cholavaram Assessment Circle,
Integrated Commercial Taxes Building,
Elephant Gate Bridge Road,
Vepery, Chennai-600003.

MOHAMMED SHAFFIQ, J.

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