IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.35441 of 2024
and
W.M.P.Nos.38331 and 38329 of 2024

Bharat Hardware Corporation,
A Proprietory Concern,
Mr.Thameemul Ansari – Proprietor,
No.25/13. Venkatamaistry Street,
Mannady, Chennai 600 001. ... Petitioner

Vs.

The Deputy State Tax Officer – 1,
Loan Square Assessment Circle,
Elephant Gate Road,
Chennai 600 003. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for records from the file of the respondent in impugned orders passed by the respondent in GSTIN:33ADVPT6372J1ZQ/2019-20 dated 28.08.2024 and Reference No.ZD330824279609T dated 29.08.2024 passed for the F.Y.2019-20 and quash the same as without jurisdiction erroneous on facts and violative of principles of natural justice.

For Petitioner : Mr.R.Ananth

For respondent : Mr.G.Nanmaran,
Special Government Pleader.

ORDER

The present writ petition is filed challenging the impugned orders dated 28.08.2024 and 29.04.2024 passed by the respondent relating to the assessment year 2019-20.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in the trading business of iron and steel viz., Bars and Rods of Iron or Non-Alloy Steel and is registered under the Goods and Services Tax Act, 2017. During the relevant period viz., 2019-20, the petitioner filed its return and paid the appropriate taxes. However, on examination of the information furnished in GSTR-3B, GSTR-01, GSTR-2A, EWB and other records available, it was *inter alia* found that the petitioner had claim excess Input Tax Credit (ITC) on account of non-reconciliation of information in GSTR-3B.

3. It is submitted by the learned counsel for the petitioner that a Show Cause Notice was issued on 21.05.2024. Further, personal hearing was offered on 26.06.2024, followed by a reminder on 06.08.2024. The petitioner in

response to the above proposal has submitted its reply vide letter dated 18.06.2024 wherein the petitioner *inter alia* submitted as follows:

> *"We are holding the Tax Invoice copy for the Goods received*
> *We are holding the E-Way Bills copy for the movement of goods as proof of evidence for the receipt of goods.*
> *We have ensured whether the supplier who has issued invoice to us has filed GST 1 and GST 3B for the period for which invoice was issued to us and the same is reflecting in out GST 2A.*
> *The Supplier was existing at the time of purchase of goods.*
> *We have made all the payment towards the invoices by bank transfer."*

4. It is submitted by the learned counsel for the petitioner that the impugned order has however been passed confirming the proposal by rejecting the reply by merely stating that the tax payer's reply is not acceptable inasmuch as the other supplier to the petitioner has only filed GSTR-1 and not GSTR-3B which, according to the petitioner, is contrary to the material on record including the reply and copies of the returns, which would show that the supplier of the petitioner has indeed filed GSTR-3B.

5. To a pointed question as to the above finding being contrary to the

material on record, the learned counsel for the respondent would submit that they would redo the assessment after granting an opportunity of hearing to the petitioner.

6. In view thereof, the impugned orders dated 28.08.2024 and 29.08.2024 are set aside. The petitioner is granted liberty to treat the impugned orders as Show Cause Notice. The petitioner is directed to file its objection along with supporting document, if any, within a period of two weeks from the date of receipt of a copy of this order. The respondent shall thereafter redo the assessment after granting the petitioner a reasonable opportunity of hearing in accordance with law.

7. 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
Index : Yes/ No
Neutral Citation: Yes/No
shk

To:

The Deputy State Tax Officer – 1,
Loan Square Assessment Circle,
Elephant Gate Road,
Chennai 600 003.

MOHAMMED SHAFFIQ, J.

shk

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