IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.35515 of 2024
and
W.M.P. No.38396 of 2024

Techno Bright Industries,
(Represented by its Partner, K.J.Sathish Kumar)
182, Sidco Industrial Estate,
Ambattur, Chennai 600 098. ..Petitioner

Vs.

The State Tax Officer (FAC)
(Also known as Commercial Tax Officer),
Pattaravakkam Assessment Circle
Station: Integrated Commercial Taxes and Registration
Department Buildings, T.S.No.2, Government Farm Village,
Room No.415, IV Floor,
Chennai 600 035. ..Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorari calling for the records on the files of the Respondent herein in the order reference number GSTIN:33AAEFT9571F1Z0/2018-19 dated 29th April, 2024 along with the summary of the order in form GST-DRC-07 vide reference no. ZD3304242576667 dated 30th April 2024 for the tax period April 2018 to March 2019, quash the same.

For Petitioner : M/s.S.Vishnupriya

For Respondent : Ms.Amrita Dinakaran,
Government Advocate.

ORDER

The present writ petition is filed challenging the impugned order passed by the respondent dated 29.04.2024 relating to the assessment year 2018-19.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in the business of designing, manufacturing and implementation of shot blasting, shot peening machine and dust collecting system and is registered under the Goods and Services Tax Act. During the relevant period, the petitioner had filed its return and paid appropriate taxes. However, during the scrutiny of the petitioner's monthly returns, the following discrepancies were noticed:

i. Excess claim of Input Tax Credit

ii.Mismatch between GSTR-2A and GSTR-3B

3. It is submitted by the learned counsel for the petitioner that an intimation in DRC-01 was issued on 30.01.2024, followed by a notice on 05.04.2024. Further, personal hearing was offered on 11.04.2024. However, the petitioner had neither filed its reply nor availed the opportunity for a personal hearing. 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 the 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 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. It was further submitted by the learned counsel for the

petitioner that subsequent to the passing of the impugned order, the petitioner had remitted entire 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. The learned counsel for the respondent confirms the statement made by the petitioner that the entire tax has been paid and further submits that the same has been remitted from the petitioner's E-cash ledger.

5. In view thereof, the petitioner shall treat the impugned order as show cause notice and the petitioner shall file their objections within a period of four weeks from the date of receipt of a copy of this order. If any such objections are filed within the stipulated period, the respondent shall consider the same and pass appropriate orders in accordance with law after affording the petitioner a reasonable opportunity of hearing. If objections are not filed within the stipulated period i.e., four weeks from the date of receipt of a copy of this order or if deposit of 25% is not made within the stipulated period, if not already paid, 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 petition is closed.

22.11.2024

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

To:
The State Tax Officer (FAC)
(Also known as Commercial Tax Officer),
Pattaravakkam Assessment Circle
Station: Integrated Commercial Taxes and Registration
Department Buildings, T.S.No.2, Government Farm Village,
Room No.415, IV Floor,
Chennai 600 035.

MOHAMMED SHAFFIQ, J.

shk

W.P. No.35515 of 2024
and
W.M.P. No.38396 of 2024

22.11.2024