IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.35891 of 2024
and
WMP Nos.38745 and 38747 of 2024

M/S Magnum Electro Tech
Rep.by its Proprietor Mr. Rajamani : Petitioner

versus

The Commercial Tax Officer
Kundrathur Assessment Circle
No.4/109, 1st Floor
Bangalore Chennai Highway
Varadarajapuram Nazarathapet
Chennai-600 123 : Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorari to call for the records pertaining to the impugned order dated 13.06.2024 issued in reference No.ZD330624113792J by the Respondent with respect to assessment year 2020-21 and quash the same.

For Petitioner : Mr.Derrick Sam

For Respondent :Mr.V.Prashanth Kiran

ORDER

The present writ petition is filed challenging the impugned order passed by the first respondent dated 13.06.2024 relating to the assessment year 2020-21.

2. The petitioner is engaged in retail business of assembling and trading in electric panels and is a registered person under the Goods and Services Act, 2017. During the relevant period, the petitioner filed its return and paid the appropriate taxes. However, during inspection of the business place of the petitioner, the following discrepancies were noticed:

i) Difference between tax payable and input tax credit adjusted

ii) E-way bill short reported in 3B for interstate supply

iii) E-way bill not generated

2.1. Subsequently, an intimation was issued to the petitioner in DRC 01A on 24.11.2023, followed by a show cause notice in DRC 01 dated 14.02.2024. Further, personal hearing was offered on 04.04.2024. The petitioner had filed their reply on 23.05.2024, however the impugned order came to be passed on the premise that the petitioner had not let in adequate proof for movement of goods.

3. 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. The learned counsel for the petitioner would then 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 they may be granted one final opportunity before the adjudicating authority to put forth their objections to the proposal. It is further submitted that during the course of audit, the petitioner has remitted amounts in excess of the admitted tax and his only request is that the same may be adjusted towards 25% of the disputed tax, the learned Government Advocate appearing for the respondent does not have any serious objection. He also seeks liberty to verify the correctness of the excess amount remitted by the petitioner.

4. In view thereof, the impugned order dated 13.06.2024 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. The respondent authority shall take into account the amount remitted by the petitioner in excess of the admitted tax, while reckoning 25% of the disputed tax, subject to verification.

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.

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

26.11.2024

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

To
The Commercial Tax Officer
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Varadarajapuram Nazarathapet
Chennai-600 123

MOHAMMED SHAFFIQ, J.

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