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W.P. No.36250 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.36250 of 2024
and
WMP Nos.39125 to 39127 of 2024

M/s. Sunrise Knitting Mills,
Represented by its Managing Partner Mr.S.Sivaraman,
S.F. No.117, Kulivayalthottam, Kullegoundanpudur,
Andipalayam, Tiruppur 641 687 : Petitioner

versus

1. Assistant Commissioner (ST),
Central-II Circle, Tiruppur-II,
Tiruppur, Tamil Nadu.
2. The Branch Manager,
Canara Bank (SME Branch)
Appachi Nagar Main Road, Appachi Nagar,
Kongu Nagar, Tiruppur 641 602. : Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari or any other appropriate writ, order, or direction, in the nature of Writ, calling for the records relating to the Assessment Order dated 20.12.2023 bearing reference No. ZD331223150456P passed by the 1st respondent and quash the same.

For Petitioner : Mr.Athiban Vijay AK

For R1 : Ms. Amrita Dinakaran
Government Advocate



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ORDER

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The present writ petition is filed challenging the impugned order passed by the respondent dated 20.12.2023 relating to the assessment year 2017-18.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in the business of manufacturing and export of garments and is registered under the Goods and Services Tax Act, 2017. During the relevant period of 2017-18, the petitioner filed its returns and paid the appropriate taxes. However, during the scrutiny of the petitioner's monthly return, it was found that there was mismatch between GSTR-3B and GSTR-2A.

3. It is submitted by the learned counsel for the petitioner that an intimation in ASMT-10 was issued on 20.07.2023, followed by a notice in DRC-01 on 30.09.2023. Further, personal hearing was offered on 24.11.2023. 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.



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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.

5. 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, to which the learned Government Advocate appearing for the first respondent does not have any serious objection.

6. In view thereof, the impugned order dated 20.12.2023 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 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. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

29.11.2024

Speaking (or) Non Speaking Order

Index : Yes/ No

Neutral Citation: Yes/No

mrn

To



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MOHAMMED SHAFFIQ, J.

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