IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.35987 of 2024
and
WMP Nos.38874 and 38875 of 2024

M/s Paradigm Tunneling Private Ltd
Having its registered office at
AP-103, 2nd Floor, 2nd Sector,
12th Street, KK Nagar, Chennai 600078
Rep. by Shereef Y, Director : Petitioner

versus

1.Commercial Tax officer
KK Nagar Assessment Circle, Greams Road,
Annexe Building, Chennai 600006

2.The Assistant Commissioner of State Tax (FAC)
Office of the Assistant Commissioner of State Tax,
KK Nagar Assessment Circle, Greams Road,
Annexe Building, Chennai 600006

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus calling for the records on the file of the 1st Respondent in the impugned proceedings against the impugned order in Form GST DRC-07 bearing reference no. ZD330424063406L dated 08.04.2024, under the provisions of CGST Act, 2017 and quash the same and consequently direct the Respondent to pass DE NOVO order

For Petitioner : Mr.Anil Bezawada

For Respondents :Mr.V.Prashan Kiran
Government Advocate

ORDER

The present writ petition is filed challenging the impugned order passed by the first respondent dated 08.04.2024 relating to the assessment year 2018-19.

2. It is submitted by the learned counsel for the petitioner that the petitioner was a sub-contractor for the works entrusted by Tamil Nadu Water Supply and Drainage Board (TWADBOARD) and is registered under the Goods and Services Tax Act, 2017. During the relevant period of 2018-19, 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 DRC-01A was issued on 11.04.2022, followed by a notice in DRC-01 on 20.11.2023. Further, personal hearings were offered and reminders on 26.02.2024, 05.03.2024 and 16.03.2024. 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.

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 respondent does not have any serious objection.

6. In view thereof, the impugned order dated 08.04.2024 is set aside and 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.

28.11.2024

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

To

1.The Commercial Tax officer
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Annexe Building, Chennai 600006

2.The Assistant Commissioner of State Tax (FAC)
Office of the Assistant Commissioner of State Tax,
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<u>MOHAMMED SHAFFIQ, J.</u>

mrn

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