IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.35842 of 2024
and
W.M.P. Nos.38705 and 38709 of 2024

Tvl.Srii Velavan Constructions,
Represented by its Proprietor,
Mr.P.Rasappa Gounder,
No.2/343, Uppliankadu,
Goundampalayam, Perunthloluvu Post,
Tiruppur, Tamil Nadu-641 665. ... Petitioner

Vs.

1.The State Tax Officer,
(also known as Commercial Tax Officer),
Pongalur Assessment Circle,
Ground Floor, Emperor Building,
Indira Nagar, 1st Street, Avinashi Road,
Tiruppur, Tamil Nadu-641 602.

2.The Branch Manager,
State Bank of India,
Nallur, SF.No.670, Amar Jothi,
Asnacar, Kankeyam Road,
Tirupur District-641 604. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records on the files of the 1st Respondent herein GSTIN:33BLHPR4511C1ZI/2018-19 dated

03.04.2024, 04.04.2024 and consequential order passed in Roc.No.33BLHPR4511C1ZI/2018-19 dated 07.08.2024 and quash the same and consequently direct the 1st Respondent to lift the attachment of the petitioner's Bank Account No.34679720537 held by the petitioner in the 2nd Respondent Bank.

For Petitioner : Mr.A.N.R.Jaya Prathap

For Respondent 1 : Mr.G.Nanmaran
Special Government Pleader

ORDER

The present writ petition is filed challenging the impugned order passed by the respondent dated 03.04.2024 relating to the assessment year 2018-19.

2. It is submitted by the learned counsel for the petitioner that the petitioner is the proprietor of the petitioner firm and is registered under the Goods and Services Tax Act, 2017. During the relevant period 2018-19, the petitioner filed its returns and paid the appropriate taxes. However, during the scrutiny of the monthly returns Form GSTR-1, GSTR-3B and auto populated Form GSTR-2A for the year 2018-19, it was found that there was an alleged mismatch between GSTR 7 vs. GSTR 3B.

3. It is submitted by the learned counsel for the petitioner that an intimation in ASMT-10 was issued on 10.05.2023, followed by intimation notice

in DRC-01A on 21.10.2023 and show cause notice in Form GST DRC-01 on 18.01.2024. Further, personal hearing notice was issued on 20.02.2024. 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 under the "view additional notices and orders" tab on 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 is further submitted that there is bank attachment and the same may be lifted, to which, the learned Additional Government Pleader appearing for the respondents does not have any serious objection.

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 Special Government Pleader appearing for the respondent does not have any serious objection.

6. In view thereof, the impugned order dated 03.04.2024 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. It was submitted that pursuant to the impugned order of assessment, recovery proceedings were initiated and bank accounts have been attached. In view of the order passed

herein, the bank attachment shall be lifted forthwith on complying with the above condition i.e., payment of 25% of disputed taxes within a period of four weeks from the date of receipt of a copy of this order.

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

No costs.

25.11.2024

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

To:
1.The State Tax Officer,
(also known as Commercial Tax Officer),
Pongalur Assessment Circle,
Ground Floor, Emperor Building,
Indira Nagar, 1st Street, Avinashi Road,
Tiruppur, Tamil Nadu-641 602.

2.The Branch Manager,
State Bank of India,
Nallur, SF.No.670, Amar Jothi,
Asnacar, Kankeyam Road,
Tirupur District-641 604.

MOHAMMED SHAFFIQ, J.

mka

W.P. No.35842 of 2024

25.11.2024