IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.36160 of 2024
and
WMP Nos.39047 and 39048 of 2024

Sri Murugan Typewriting Institute.
Rep. By its Proprietor K.S.Ramesh Babu : Petitioner

versus

1.The Deputy Commissioner (CT),
O/o, The Deputy Commissioner (ST),
GST Appeal, Chennai I, Main Building,
2nd Floor, No.1, Greams road,
Chennai 600006

2.The Deputy State Tax Officer-1,
The Deputy Commercial Tax Officer,
Tiruttani Assessment Circle,
Tiruvallur Division, Tiruvallur District

3.The Branch Manager,
Canara Bank, No.21, Chittor Road,
Opp. To Police Quarters,
Tiruttani 631 209 : Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, calling for demand order made in Reference No.ZD3311230740611 dated 14.11.2023 by the 2nd respondent and order dated 17.10.2024 passed in ARN AD330724027827W passed by 1st respondent and quash the same and consequently direct the respondent to give an opportunity of personal hearing.

For Petitioner : Mr.P.Suresh Babu

For Respondents :Mr.G.Nanmaran,
Special Government Pleader

ORDER

The present writ petition is filed challenging the impugned orders passed by the second respondent dated 14.11.2023 and the order dated 17.10.2024 passed by the first respondent, relating to the assessment year 2021-22.

2. At the outset, learned counsel for the petitioner would submit that the petitioner seeks to withdraw the prayer, challenging the order dated 17.10.2024 passed in ARN# AD330724027827W. The learned counsel has made an endorsement to that effect.

3. In view of the submissions made by the learned counsel for the petitioner and the endorsement made to that effect, the writ petition is dismissed as withdrawn, insofar as the order dated 17.10.2024 passed in ARN# AD330724027827W.

4. Now let us examine the impugned order dated 14.11.2023. The petitioner is engaged in the services of teaching typewriting 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 the scrutiny of the petitioner's monthly return, it was found that there was mismatch between GSTR 3B and GSTR 7.

4.1. Subsequently, a notice was issued to the petitioner in GST ASMT-10 on 22.02.2023, followed by an intimation in DRC 01A dated 24.04.2023. The petitioner was issued with a notice in Form GST DRC-01 dated 24.07.2023. Further, personal hearings were offered on 04.08.2023, 08.09.2023, 13.10.2023 and 25.10.2023. However, the petitioner had neither filed its reply nor availed the opportunities for personal hearings. Hence, impugned order came to be passed, confirming the proposal.

5. 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 they had filed an appeal along with pre deposit of 10 % and in addition, they had paid more than Rs.10 Lakhs, after the passing of the impugned order, and his only request is that the same may be adjusted towards 25% of the disputed tax, to which, the learned Special Government Pleader appearing for the respondent does not have any serious objection, while seeking liberty to verify the correctness of the statement relating to remittance made by the petitioner.

6. By consent of both parties, the writ petition stands disposed of on the following terms:

a) The impugned order dated 14.11.2023 is set aside

b) The petitioner shall deposit 25% of the disputed taxes as admitted by the learned counsel for the petitioner and the respondent, within a period of four weeks from the date of receipt of a copy of this order.

c) It is open to the petitioner to produce material to show that the entire taxes are paid. If any amount has been recovered or paid out of the disputed taxes, including by way of pre-deposit in appeal, the same would be reduced/adjusted, from/towards the 25% of disputed taxes directed to be paid.

The assessing authority shall then intimate the balance amount out of 25 % of disputed taxes to be paid, if any, within a period of one week from the date of receipt of a copy of this order. The petitioner shall deposit such remaining sum within a period of three weeks from such intimation.

d) The entire exercise of verification of payment, if any, intimation of the balance sums, if any, to be paid for compliance with the direction of payment of 25% of the disputed taxes, after deducting the sums already paid and payment by the petitioner of the balance amount, if any, on intimation in compliance of the above direction, shall be completed within a period of four weeks from the date of receipt of copy of this order.

e) Failure to comply with the above condition viz., payment of 25% of disputed taxes within the stipulated period i.e., four weeks from the date of receipt of a copy of this order shall result in restoration of the impugned order.

f) If there is any recovery by way of attachment of Bank account or garnishee proceedings, the same shall be lifted /withdrawn on complying with the above condition viz., payment of 25 % of the disputed taxes.

g) 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. It is made clear that if the above conditions viz., 25% of disputed taxes is not complied or objections are not filed within the stipulated period, four weeks respectively 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

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MOHAMMED SHAFFIQ, J.

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