IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.35877 of 2024
and
WMP Nos.38735 and 38738 of 2024

Tvl.Swastic Electronics
rep. By its Proprietrix Kavitha : Petitioner

versus

The Assistant Commissioner (ST) (F.AC)
Chintadripet Assessment circle,
Chennai 600006 : Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorari calling for the records on the files of the respondent in FORM GST DRC-07 with Reference No.ZD331223113069V dated 15.12.2023 along with detailed order in GSTIN 33AAIPK6295M1Z6/ 2017-18 dated 15.12.2023, for the assessment period 2017-18 and quash the same

For Petitioner : Ms.S.Vishnupriya

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

ORDER

The present Writ Petition is filed challenging the impugned order passed by the respondent dated 15.12.2023 relating to the assessment year 2017-18.

2. The petitioner is engaged in the business of trading of electrical items. The petitioner is a registered dealer under Goods and Services Act, 2017. During the relevant period, the petitioner had filed its return and paid appropriate taxes. While scrutinizing the petitioner's return, it was found that there was mismatch between GSTR-1 and GSTR 2-A/2B. Subsequently, notice was issued in DRC-01A to the petitioner on 11.09.2023 through GST Portal, followed by a Show Cause Notice on 22.09.2023 and reminders on 02.11.2023 and 20.11.2023. However, the petitioner had neither filed its reply nor paid the tax amount. Hence, the impugned order came to be passed.

3. The impugned order is challenged on the premise that the notices and orders were uploaded under the “view additional notices and orders” tab on the GST Portal, thereby, the petitioner was unaware of the initiated proceedings and thus unable to participate in the adjudication proceedings.

4. The limited issue that arises for consideration in the impugned order is the alleged mismatch between GSTR-1 and GSTR 2-A/2B. It is submitted by the learned counsel for the petitioner that if the petitioner is provided with an opportunity, he would be able to explain the alleged discrepancies between GSTR-1 and GSTR 2-A/2B.

5. 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***. It was further submitted that the petitioner is ready and willing to pay 25% of the disputed tax and that he 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 15.12.2023 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. 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.

7. Accordingly, the Writ Petition stands disposed of. No costs. Consequently, connected WMP Nos.38735 and 38738 of 2024 are closed.

26.11.2024

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

To
The Assistant Commissioner (ST) (F.AC)
Chintadripet Assessment circle,
Chennai 600006

MOHAMMED SHAFFIQ, J.

mrn

W.P. No.35877 of 2024

26.11.2024