IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.36085 of 2024
and
W.M.P.No.38984 and 38985 of 2024

Tvl.Ragul Industries
(Represented by its proprietor
Venkataramanappa Kenchappa)
701/1-F, Kothur Road, Behind TI Tubes,
Kothagondapalli, Hosur 635 109. .. Petitioner

Vs.

The State Tax Officer,
Inspection - 5,
O/o The Joint Commissioner (ST) (Int),
No.3/47, Sapthagiri Complex,
Hosur 635 109. .. Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records relating to the impugned order bearing GSTIN 33AQIPK2639R1ZB/2019-20 dated 03.07.2024 passed by the respondent and quash the same.

For Petitioner : Mr.G.Natarajan

For Respondent : Mr.C.Harsha Raj
Additional Government Pleader

ORDER

The present writ petition is filed challenging the impugned order dated 03.07.2024, passed by the respondent in GSTIN 33AQIPK2639R1ZB/2019-20.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in the business of manufacturing of automobile components and is registered under the GST Act. During the relevant period of 2019-20, the petitioner has filed the returns and paid appropriate taxes. However, on verification of the returns filed by the petitioner, the following defects were noticed:

(i) Availment of ineligible and excess ITC under IGST as per GSTR 9.

(ii) Availed credit note to be reversed.

(iii) Availment of Blocked Input Tax Credit to be reversed.

(iv) Mismatch Between GSTR 3B and GSTR 2A.

(v) Mismatch Between GSTR 3B and GSTR 1.

(vi) Discrepancies between Profit and Loss a/c and GSTR 9C.

3. It is also submitted by the learned counsel for the petitioner that an intimation in DRC 01A was issued on 08.02.2024 followed by a notice in Form DRC-01 on 27.03.2024 and reminders dated 03.05.2024, 28.05.2024 and 31.05.2024. Subsequently, the petitioner had filed reply dated 04.06.2024. On consideration of the reply all except for the following 3 defects were dropped viz.,

(i) Availment of Blocked Input Tax Credit to be reversed.

(ii)Mismatch Between GSTR 3B and GSTR 2A.

(iii)Mismatch Between GSTR 3B and GSTR 1.

4. However, with reference to mismatch between GSTR 3B and GSTR 2A, it is submitted by the learned counsel for the petitioner that the impugned order proceeds on the basis that the petitioner has failed to produce certificate from the supplier in terms of Circular No.183 to demonstrate that the taxes are in fact being discharged. Insofar as other two defects viz., Availment of Blocked Input Tax Credit to be reversed and Mismatch Between GSTR 3B and GSTR 1 are concerned, the impugned order proceeds on the basis that they were not supported by relevant documentary evidences.

5. The learned counsel for the petitioner would submit that they would be able to produce certificate from the supplier on the basis of Circular No.183 to demonstrate compliance with Section 16 of the TNGST Act, if one final opportunity is granted. It is also submitted by the learned counsel for the petitioner that in respect of the other issues also they may be granted liberty to produce documentary evidence as the documentary evidence that was already filed was not considered.

6. 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.

7. 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 produce the relevant

documentary evidences, to which the learned Additional Government Pleader appearing for the respondent does not have any serious objection.

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

a) The impugned order dated 03.07.2024 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) 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.

9. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

05.12.2024

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

To:

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O/o The Joint Commissioner (ST) (Int),
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MOHAMMED SHAFFIQ, J.

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