IN THE HIGHCOURT OF JUDICATURE AT MADRAS

DATED : 10.12.2024

CORAM

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.36753 of 2024
and
W.M.P.Nos.39667 & 39669 of 2024

New Dolphin Machining Solutions
Rep.by its Managing Partner
V.S.Sridhar ... Petitioner

Vs.

The Deputy Commercial Tax Officer,
Ambattur Industrial Estate Assessment Circle,
Room No.324, 3rd Floor,
Integrated Commercial Taxes Building,
Nandanam, Chennai 600 035. .. Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling of the respondent order in Reference Number ZD330424197125G/2018-19 dated 25.04.2024 and quash the same.

For Petitioner : Mr.V.Vijayalakshmi

For Respondent : Mr.G.Nanmaran
Special Government Pleader

ORDER

The present writ petition is filed challenging the impugned order in Reference Number ZD330424197125G/2018-19 dated 25.04.2024 passed by the respondent .

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in the business of manufacturing of machinery components and other allied service. During the relevant period of 2018-19, the petitioner has filed the returns and paid appropriate taxes. However, on scrutiny it was found that the tax payer has created two different E-way bills **.**

3. It is submitted by the learned counsel for the petitioner that notice was issued Form DRC-01 on 03.01.2024. Though the petitioner has not filed any reply, the authorised person of the company was not

well. Hence, the impugned order came to be passed, confirming the proposal.

4. The learned counsel for the petitioner would submit that 10% of the disputed tax has already been deposited while preferring the appeal before the Deputy Commissioner (GST) Coimbatore. Apart from that, now he is ready and willing to pay 15% of the disputed tax

5. 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 subsequent to the passing of the impugned order, the petitioner has remitted amounts in excess of the admitted tax and his only request is that the same may be

adjusted towards 25% of the disputed tax. It is further submitted that there is bank attachment and the same may be lifted, to which, the learned Special Government Pleader appearing for the respondents does not have any serious objection.

6. In view thereof, the impugned order is set aside and the respondents may verify whether the petitioner has remitted the amount in excess of admitted tax. If on verification, it is found that the amount is not remitted then 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. The respondent authority shall take into account the amount remitted by the petitioner in excess of the admitted tax, while reckoning 25% of the disputed tax. 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. This Writ Petition is disposed of with the aforesaid observation and direction. No costs. Consequently, connected miscellaneous petitions are closed. .

10.12.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
kkd

To

The Deputy Commercial Tax Officer,
Ambattur Industrial Estate Assessment Circle,
Room No.324, 3rd Floor,
Integrated Commercial Taxes Building,
Nandanam, Chennai 600 035.

J.SATHYA NARAYANA PRASAD, J.

kkd

W.P.No.36753 of 2024

10.12.2024