IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.36050 of 2024
and
W.M.P.Nos.38945 and 38947 of 2024

Tvl.SKB Construction,
Represented by its Partner,
Mr.Kumara Boopathy,
No.27, 1st Street,
Lakshmi Nagar, Velachery,
Chennai 600 042. ..Petitioner

Vs.

The Assistant Commissioner (ST)
Velachery Assessment Circle,
No.571, Integrated Commercial Taxes
and Registration Department (South Tower),
2nd Floor Anna Salai,
Nandanam, Chennai 600 035. ..Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorari calling for the records pertaining to the impugned order dated 09.08.2024 vide GSTIN:33ABRFS0276J2ZS/2019-2020, passed by the respondent and quash the same as illegal, arbitrary and against the principles of natural justice.

For Petitioner : Mr.K.M.Malarmannan

For Respondent : Mr.T.N.C.Kaushik,
Additional Government Pleader.

ORDER

The present writ petition is filed challenging the impugned order passed by the respondent dated 09.08.2024 relating to the assessment year 2019-20.

2. The petitioner is engaged in the business of civil construction works and is a registered dealer under the Goods and Services Act, 2017. During the relevant period, the petitioner filed its return and paid the appropriate taxes. However, on examination of the information furnished in the return under various heads and also the information furnished in GSTR-01, GSTR-2A, GSTR-3B, E-Way Bills and other records available, the following discrepancies were noticed viz.,

i. Excess Input Tax Credit (ITC) claimed on account of non-reconciliation of information.

ii. ITC claimed from cancelled dealers, return defaulters and tax non-payers.

Subsequently, an intimation in DRC-01 was issued to the petitioner on 20.05.2024, followed by reminders and personal hearing on 27.06.2024 and 06.07.2024. Thereafter, reply was filed by the petitioner on 20.06.2024. Though the reply was filed, the impugned order came to be passed confirming the proposal on the basis that the petitioner had failed to furnish the required documents, even after the lapse of more than a month.

3. 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 **Sree Manoj International Vs. Deputy State Tax Officer in W.P.No.10977 of 2024 dated 25.04.2024**, to submit that this court has remanded the matter back in similar circumstances subject to payment of 10% of the disputed taxes.

4. It was further submitted that the petitioner is ready and willing to pay 10% 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 Additional Government Pleader appearing for the respondent does not have any serious objection.

5. In view thereof, the impugned order dated 09.08.2024 is set aside and the petitioner shall deposit 10% of the disputed tax within a period of four 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 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.

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

27.11.2024

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

The Assistant Commissioner (ST)
Velachery Assessment Circle,
No.571, Integrated Commercial Taxes
and Registration Department (South Tower),
2nd Floor Anna Salai,
Nandanam, Chennai 600 035.

MOHAMMED SHAFFIQ, J.

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