IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **06.12.2024**

CORAM :
THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.36428 of 2024
and W.M.P.Nos.39292 & 39293 of 2024

Sri Dhanalakshmi Traders,
Rep. by its Managing Partner,
Mr.Annamalai Kanakaraj Prabhu,
No.11/4, Ground Floor, G.S.T. Road,
Guduvanchery,
Kancheepuram – 603 202. ... Petitioner

Vs.

The Deputy State Tax Officer-II,
Maraimalai Nagar Assessment Circle,
4/109, Second Floor,
Bangalore Chennai Highway, Varadarajapuram,
Nazarathpet,
Chennai – 600 123. … Respondent

Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorari calling for the records on the files of the respondent order in Reference Number ZD330424255147J/2018-19 dated 30.04.2024 and quash the same.

For Petitioner : Mr.S.Ramanan

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

ORDER

This writ petition has been filed challenging the impugned order passed by the respondent bearing Reference No. ZD330424255147J/2018-19 dated 30.04.2024 for the assessment year 2018-19.

2. It is submitted by the learned counsel for the petitioner that the petitioner is a partnership firm engaged in trading of Bricks, Tiles, Paverblocks and allied sanitary wares. The Respondent had issued a Notice namely FORM GST DRC-01A for the year 2018-19 on 24.01.2024 under section 73(5) of the TNGST ACT, 2017 alleging that more than one E-way bill generated for the same invoice. Further in this regard, the Respondent had issued Form DRC-01 on 29.01.2024, followed by Reminder-1 on 10.04.2024 and Reminder-2 on 23.04.2024. The Respondent had passed on Impugned order in Form DRC-07 dated 30.04.2024, challenging same, the Petitioner has filed the present Writ Petition.

2.1. It is submitted by the learned counsel for the petitioner that the petitioner was completely unaware of the issuance of the Demand order until phone call received from the respondent. The petitioner is not conversant with compliances under the GST Regime. The petitioner was not aware of impugned proceedings as the Petitioner's Consultant on whom the petitioner was depending for GST Compliances, has failed to communicate about the proceedings.

3. Learned counsel for the petitioner would place reliance upon the recent judgment of this Court in the case of ***M/s.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.

4. 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, to which the learned Special Government Pleader for the respondent does not have any serious objection.

5. In view thereof, the impugned order dated 30.04.2024 is set aside and the petitioner shall deposit 25% of the disputed tax within a period of four weeks from the date of receipt of a copy of this order. The impugned order 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 from the date of receipt of a copy of this order, the impugned order shall stand revived.

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

06.12.2024 (vm)

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No

To:

The Deputy State Tax Officer-II,
Maraimalai Nagar Assessment Circle,
4/109, Second Floor,
Bangalore Chennai Highway, Varadarajapuram,
Nazarathpet,
Chennai – 600 123.

J.SATHYA NARAYANA PRASAD,J.

vm

W.P.No.36428 of 2024

06.12.2024