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W.P.No.37078 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2024

CORAM :

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.37078 of 2024

and

W.M.P.Nos.40060 & 40061 of 2024

M/s.Joseph Ancersi
(Trade Name : M/s.JS Agencies)
Rep.by its Proprietor Joseph Ancersi

... Petitioner

Vs.

The Superintendent of GST & Central Excise,
Range-1, Sholinganallur Division,
Sholinganallur Division,
Chennai South Commissionerate,
8th Floor, M.H.U.Complex,
Nandanam, Chennai 600 035.

... Respondents

Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, calling for the records on the file of the respondent in the impugned order in Original No.11/2023 dated 29.11.2023 in DIN – 20231159TL000000AE33, under the provisions of CGST Act, 2017 and quash the same and consequently direct the respondent to pass DE NOVO order.



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For Petitioner : Mr.S.Lakshmi Narayanan
For Respondent : Mr.R.P.Pragadish
Senior Standing Counsel

ORDER

The present Writ Petition is filed challenging the impugned order passed by the first respondent dated 12.08.2024 for the Financial year 2018-2019..

2. The petitioner is engaged in the business of trading of Atta, wheat, Rava, Pasta, Sooji, Washing liquids, scent sprays, etc., and is registered 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 a mismatch between GSTR-3B and GSTR-2A.

3. It is submitted by the learned counsel for the petitioner that the petitioner was issued with a Show Cause Notice No.49/2022 dated



18.04.2022 by the respondent followed by its summary proceedings. The petitioner was also further given opportunity of personal hearing on 20.09.2024, 06.10.2023 and 31.10.2023 respectively. However, the petitioner had not responded to the above show cause notice. Hence, the ex parte impugned order came to be passed, confirming the proposal.

4. 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.

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.



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7. In view thereof, the impugned order 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.

8. 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 along with supporting documents/material, within a period of four (4) weeks from the date of receipt of a copy of this order. 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., two weeks and four weeks respectively from the date of receipt of a copy of this order, the impugned order of assessment shall stand restored.

9. This Writ Petition is disposed of with the aforesaid observation and direction. No costs. Consequently, connected miscellaneous petitions are closed.



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

The Superintendent of GST & Central Excise,
Range-1, Sholinganallur Division,
Sholinganallur Division,
Chennai South Commissionerate,
8th Floor, M.H.U.Complex,
Nandanam, Chennai 600 035.

J.SATHYA NARAYANA PRASAD,J.

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