IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2024

CORAM:

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.36953 of 2024
and
W.M.P.Nos.39902, 39905 & 39908 of 2024

Tvl.R.Jayaramakrishnan
Rep. By its Proprietor,
Mr.R.Jayaramakrishnan,
No.11/21, Nyneeappan Street,
Pattalam,
Chennai – 600 012. ...Petitioner

-Vs-

1.The Deputy State Tax Officer – 1,
Perambur Assessment Circle,
No.15&16, Malliga Avenue,
Kolathur,
Chennai – 600 099.

2.The Deputy Commissioner (ST),
North – III Zone,
5th Floor, Room No.518,
Integrated Commercial Taxes Building,
No.32, Elephant Gate Road,
Chennai – 600 003. ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a direction in the nature of Writ of Certiorarified

Mandamus, calling for the records of the first respondent in GSTIN:33AMQPJ7931H1ZS/2020-2021 dated 19.06.2024 and quash the same and consequently direct the first respondent to grant an opportunity of personal hearing and pass such further orders.

For Petitioner : Mr.M.Desingu

For Respondents : Mr.K.Kaushik
Government Advocate (Tax)

ORDER

Mr.K.Kaushik, learned Government Advocate (Tax) takes notice on behalf of the respondents. With the consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

2. The present writ petition is filed challenging the impugned order passed by the first respondent dated 19.06.2024 relating to the assessment year 2020-21.

3. The petitioner is engaged in the business of Goods Transport Agency. The petitioner is a registered dealer under Goods and Services Act, 2017 GSTIN:33AMQPJ7931H1ZS validity from 09.07.2017. The said GSTIN was cancelled by the State Tax Officer (Circle), Perambur with effect from 20.09.2018. Upon cancellation of GSTIN:33AMQPJ7931H1ZS, the

petitioner got new registration certificate in GSTIN:33AMPJ7931H2ZR with effect from 19.09.2019. The monthly returns in Form GSTR-1 and Form GSTR-3B were furnished by the petitioner electronically through common portal.

4. Learned counsel appearing for the petitioner submitted that a show cause notice was served upon the petitioner in Form GST DRC-01 dated 22.08.2023 by the first respondent. Further, personal hearing was offered on 22.09.2023. However, the petitioner had neither filed its reply nor availed the opportunity for a personal hearing. Hence, the impugned order came to be passed.

5. It is submitted by the learned counsel for the petitioner that neither the show cause notices nor the impugned order of assessment has been served on the petitioner by tender or sending it by RPAD, instead it had been uploaded under the field "Additional Notices and Orders" tab on the GST Portal, thereby, the petitioner was unaware of the initiated proceedings and was thus unable to participate in the adjudication proceedings. It is further 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 that there have been significant differences in the comparison of taxable suppliers reported by the petitioner through GSTR-3B monthly returns to compare with Form 26AS - Annual statement under section 203AA of the income tax Act, 1961 for the financial year 2020-2021. The first respondent arrived at a net difference of turnover for the year 2020-2021 of Rs.68,12,000/- and imposed taxes of Rs.6,13,080/- under CGST and Rs.6,13,080/- under SGST besides interest and penalty are imposed thereon.

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 they may be granted one final opportunity before the adjudicating authority to put forth their objections to the proposal, to which the learned Government Advocate appearing for the

respondents does not have any serious objection.

8. In view thereof, the impugned order passed by the first respondent dated 19.06.2024 is hereby set aside and this Court is inclined to pass the following orders:

a) The petitioner shall deposit 25% of the disputed tax within a period of two weeks from the date of receipt of a copy of this order.

b) 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.

c) If any such objections are filed, the same shall be considered by the respondents and orders shall be passed in accordance with law after affording a reasonable opportunity of hearing to the petitioner.

d) 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 revived.

Accordingly, the **Writ Petition stands disposed of with the above observations and directions**. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

09.12.2024

cda
Index : Yes / No
Speaking/Non Speaking order

To

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J.SATHYA NARAYANA PRASAD, J.

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