IN THE HIGHCOURT OF JUDICATURE AT MADRAS

DATED : 10.12.2024

CORAM

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.37023 of 2024
and
W.M.P.No.39996 of 2024

Neikarapatty Ilanthendral Manamakizh Sangam
Rep.by it Joint Secretary,
S.Murugan ... Petitioner

Vs.

The Assistant Commisioner,
Kondalampatty Assessment Circle,
3rd Floor, Commercial Taxes Office Buildings,
Pitchards Road, Hasthampatty,
Salem 636 007. .. Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records of the respondent in its proceedings in TIN : 33576330677/2022-23 dated 06.05.2024 and quash the same.

For Petitioner : Mr.D.Vijayakumar
for M/s.TP.Savitha

For Respondent : M/s.Amirta Dinakaran
Government Advocate(T).

ORDER

The present writ petition is filed challenging the impugned order Reference No.33576330677/2022-23 dated 06.05.2024 passed by the respondent.

2. It is submitted by the learned counsel for the petitioner that the petitioner is a Recreation club and provided healthy food and drinks for the welfare of the business communities and other people and it is registered under the Sales Tax Act (VAT Act) and also having a FL License to sell liquors .

3. Further it is submitted that the respondent had conducted a surprise inspection at the petitioner's premises on 31.05.2023. After the surprise inspection, the petitioner has not filed its return in Form-1 under the Tamil Nadu Value Added Tax Act, 2006.

4. It is submitted by the learned counsel for the petitioner that notice was issued to the petitioner on 05.03.2024 and personal hearing was offered on 12.03.2024 and 21.04.2024. However, the petitioner had neither filed its reply

nor paid the tax. Hence, the impugned order came to be passed, confirming the proposal.

5. It is submitted by the learned counsel for the petitioner that if the petitioner is provided with an opportunity, he would be able to explain the discrepancy.

6. 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.

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., 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.

10.12.2024

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

To

The Assistant Commisioner,
Kondalampatty Assessment Circle,
3rd Floor, Commercial Taxes Office Buildings,
Pitchards Road, Hasthampatty,
Salem 636 007.

J.SATHYA NARAYANA PRASAD, J.

kkd

W.P.No.37023 of 2024

10.12.2024
(1/3)