



W.P. No.36603 of 024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.36603 of 2024
and
W.M.P. No.39478 of 2024

Tvl.Supreme Way India and Co.,
(Represented by its Proprietor
Mr.N.Selvam)
89/25, Dr.Ambedkar Nagar,
Thiruvottiyur,
Chennai-600 019.

... Petitioner

Vs.

1.The Deputy State Tax Officer-I,
Thiruvottiyur Assessment Circle,
Door No.32, Room No.215, 2nd Floor,
Tiruvallur Division,
Integrated Commercial Taxes Offices Building,
Elephant Gate Bridge Road, Vepery,
Chennai-600 003.

2.The Deputy Commissioner (ST)(FAC),
GST-Appeal, Chennai-I,
C.T.Annexe Building, 3rd Floor,
No.1, Greams Road,
Chennai-600 006.

... Respondents



W.P. No.36603 of 024

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records on the files of the 1st Respondent herein in FORM GST DRC-07 with Reference No.ZD331223276168F dated 30.12.2023 along with the detailed Notice-Annexure to ASMT 10 notice in GSTIN:33ANBPS9399E1ZK/2017-18 dated 30.08.2023 for the assessment period 2017-18 and quash the same.

For Petitioner : Ms.S.Vishnupriya
for Mr.B.Syed Abdul Wakeel

For Respondents : Mr.TNC. Kaushik
Additional Government Pleader

ORDER

The present writ petition is filed challenging the order dated 30.12.2023 on the premise that the detailed order has not been served.

2. It is submitted by the learned counsel for the petitioner that the petitioner is registered under the Goods and Services Tax Act, 2017. During the relevant period 2017-18, the petitioner filed its returns and paid the appropriate taxes. There was an audit of the petitioner's place of business, during the course of such audit the following discrepancies *inter alia* were noticed:

- i) GSTR 3B vs. GSTR 1 and
- ii) GSTR 3B vs. GSTR 2A/ GSTR 2B.



W.P. No.36603 of 024

WEB COPY

3. It is submitted by the learned counsel for the petitioner that ASMT-10 notice was issued on 30.08.2023, followed by a notice in DRC-01 on 29.09.2023. The impugned order came to be passed came to be passed on 30.12.2023 and that the detailed order was uploaded in the web portal. 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.

4. 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. It is submitted by the learned counsel for the petitioner that the petitioner had filed an appeal before the Appellate Authority along with 10% pre-deposit, which has been rejected on the ground of being barred by limitation and her only request is that the same may be adjusted towards 25% of the disputed tax, to which, the learned Additional Government



W.P. No.36603 of 024

Pleader appearing for the respondents does not have any serious objection.

WEB COPY

5. By consent of both parties, the writ petition stands disposed of on the following terms:

- a) The impugned order dated 30.12.2023 is set aside.
- b) The petitioner shall deposit 25% of the disputed taxes as admitted by the learned counsel for the petitioner and the respondent, within a period of four weeks from the date of receipt of a copy of this order.
- c) If any amount has been recovered or paid out of the disputed taxes, including by way of pre-deposit in appeal, the same would be reduced/adjusted, from/towards the 25% of disputed taxes directed to be paid. The assessing authority shall then intimate the balance amount out of 25 % of disputed taxes to be paid, if any, within a period of one week from the date of receipt of a copy of this order. The petitioner shall deposit such remaining sum within a period of three weeks from such intimation.
- d) The entire exercise of verification of payment, if any, intimation of the balance sums, if any, to be paid for compliance with the direction of payment of 25% of the disputed taxes, after deducting the sums already paid and payment by the petitioner of the balance amount, if any, on intimation in compliance with the above direction shall be completed within a period of four weeks from the date



W.P. No.36603 of 024

of receipt of copy of this order.

WEB COPY

e) Failure to comply with the above condition viz., payment of 25% of disputed taxes within the stipulated period i.e., four weeks from the date of receipt of a copy of this order shall result in restoration of the impugned order.

f) If there is any recovery by way of attachment of Bank account or garnishee proceedings, the same shall be lifted /withdrawn on complying with the above condition viz., payment of 25 % of the disputed taxes.

g) 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 (4) 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. It is made clear that if the above conditions viz., 25% of disputed taxes is not complied or objections are not filed within the stipulated period, four weeks respectively from the date of receipt of a copy of this order, the impugned order of assessment shall stand restored.



W.P. No.36603 of 024

6. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

05.12.2024

Speaking (or) Non Speaking Order

Index : Yes/ No

Neutral Citation: Yes/No

mka



W.P. No.36603 of 024

WEB COPY

To:

1. The Deputy State Tax Officer-I,
Thiruvottiyur Assessment Circle,
Door No.32, Room No.215, 2nd Floor,
Tiruvallur Division,
Integrated Commercial Taxes Offices Building,
Elephant Gate Bridge Road, Vepery,
Chennai-600 003.

2. The Deputy Commissioner (ST)(FAC),
GST-Appeal, Chennai-I,
C.T. Annexe Building, 3rd Floor,
No.1, Greaves Road,
Chennai-600 006.



WEB COPY



W.P. No.36603 of 024

MOHAMMED SHAFFIQ, J.

mka

W.P. No.36603 of 2024

05.12.2024

(1/2)