IN THE HIGHCOURT OF JUDICATURE AT MADRAS

DATED : 02.12.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.36671 of 2024
and
W.M.P.Nos.39569, 39570 and 39571 of 2024

NTNN Quest Engineering Private Limited,
Represented by its Director Mr. Nitin Agarwaal,
New No.66, Old No.58, Kamdar Nagar, 2nd Street,
Nungambakkam, Tamil Nadu 600 034 ... Petitioner

Vs.

1. The State Tax Officer (FAC),
   (Also known as Commercial Tax Officer)
   Valluvarkottam Assessment Circle,
   Station No.10, Palaniappa Tower, Greams Road,
   4th Floor, Chennai 600 006.

2. The Assistant Commissioner (ST),
   Valluvarkottam Assessment Circle,
   6th Floor, PAPJM Annexure Building, Greams Road,
   Chennai 600 006.

3. The Branch Manager,
   State Bank of India,
   New No.88, G.N.Chetty Street, T.Nagar,
   Chennai 600 017. ... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records on the file of the 1st respondent herein in the order reference No.GSTIN/33AAFCN0077J1ZJ / 2017-18 dated 31.12.2023 along with the summary of the order in GST-DRC-07 in reference number ZD331223290537E dated 31.12.2023 and quash the same.

For Petitioner : Ms.S.Vishnupriya

For Respondents : Ms.Amrita Dinakaran
Government Advocate

ORDER

The present writ petition is filed challenging the impugned order dated 31.12.2023, passed by the respondent in GSTIN/33AAFCN0077J1ZJ / 2017-18 on the premise that the same is made in violation of principles of natural justice.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in business of manufacture of spare parts and is registered under the GST Act. During the relevant period of 2017-18, the petitioner has filed the returns and paid appropriate taxes. However, on scrutiny of return, it

was found that there was a discrepancy viz., Mismatch between GSTR 2A and GSTR3B.

3. It is submitted by the learned counsel for the petitioner that a notice in Form DRC01 was issued on 07.09.2023 wherein opportunity personal hearing was also granted and reminder notices were issued on 13.10.2023, 10.11.2023 and 21.11.2023. Pursuant thereto, the petitioner had filed its reply dated 05.03.2024. It is submitted by the learned counsel for the petitioner the impugned order of assessment has not been served on the petitioner by tender or sending it by RPAD, instead it had been uploaded in "view additional notices" column in GST Portal, thereby, the petitioner was unaware of the impugned order of assessment. 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 alleged discrepancy viz., mismatch between GSTR 2A and GSTR3B.

4. 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. It is further submitted that there is bank attachment and the same may be lifted, to which, the learned Government Advocate appearing for the respondent does not have any serious objection.

5. It was further submitted that the petitioner is ready and willing to pay 25% of the disputed tax and that he 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 respondent does not have any serious objection.

6. In view thereof, the impugned order dated 31.12.2023 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 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. 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. In view of the order passed herein, the bank attachment shall be lifted forthwith on complying the above condition i.e., payment of 25% of disputed taxes within a period of four weeks from the date of receipt of a copy of this order.

7. Accordingly, the Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

02.12.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
spp

To

1. The State Tax Officer (FAC),
   (Also known as Commercial Tax Officer)
   Valluvarkottam Assessment Circle,
   Station No.10, Palaniappa Tower, Greams Road,
   4th Floor, Chennai 600 006.

2. The Assistant Commissioner (ST),
   Valluvarkottam Assessment Circle,
   6th Floor, PAPJM Annexure Building, Greams Road,
   Chennai 600 006.

3. The Branch Manager,
   State Bank of India,
   New No.88, G.N.Chetty Street, T.Nagar,
   Chennai 600 017.

MOHAMMED SHAFFIQ, J.

spp

W.P.No.36671 of 2024
and
W.M.P.Nos.39569, 39570 and 39571 of 2024

02.12.2024