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W.P.No.37044 of 2024

IN THE HIGHCOURT OF JUDICATURE AT MADRAS

DATED : 10.12.2024

CORAM

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.37044 of 2024

and

W.M.P.Nos.40019 & 40020 of 2024

Fashion Footwear

Represented by its Proprietor

V.Purushothaman

... Petitioner

Vs.

The State Tax Officer,
Saligramam Assessment Circle,
Station: No.46, 3rd Floor, Room No.310,
Bishop Garden, Mylapore Taluk,
Office Building, Greenways Road,
Chennai-28.

.. 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 on the file of the respondent in GSTIN/33AIRPO7756M1ZB/2019-20 in GST DRC-07 in Order Ref No.ZD33082407732C proceedings dated 06.08.2024 and quash the same.

For Petitioner : Mr.R.Vasumithran

For Respondent : Mr.K.Kaushik
Additional Government Pleader



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ORDER

The present writ petition is filed challenging the impugned proceedings of the respondent for the Financial Year 2019-2020 dated 06.08.2024.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in the business of footwear. During the relevant period of 2019-20, the petitioner has filed the returns and paid appropriate taxes. However, on scrutiny it was found that there was a mismatch between GSTR-2A/2B and GSTR-4.

3. It is submitted by the learned counsel for the petitioner that the petitioner was issued with a show cause notice in Form GST DRC-01 only on 30.05.2024 by the respondent followed by its summary proceedings. The petitioner was also further given opportunity of personal hearing on 19.06.2024. However, the petitioner had not responded to the above show cause notice. Hence, the impugned order came to be passed.



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4. 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 between GSTR-2A/2B and GSTR-4. The learned counsel for the petitioner would place reliance upon the recent judgment of this Court in the case of **Sree Manoj International Vs. Deputy State Tax Officer in W.P.No.10977 of 2024 dated 25.04.2024**, to submit that this court has remanded the matter back in similar circumstances subject to payment of 10% of the disputed taxes.

5. It was further submitted that the petitioner is ready and willing to pay 10% 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 Additional Government Pleader appearing for the respondent does not have any serious objection.

6. In view thereof, the impugned order dated 06.08.2014 is set aside and the petitioner shall deposit 10% of the disputed tax within a period of four weeks from the date of receipt of a copy of this order. On complying with the above condition, the impugned order of assessment shall be treated as show



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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.

7. 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
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To

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J.SATHYA NARAYANA PRASAD, J.

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