IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **10.12.2024**

CORAM :
THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.37080 of 2024
and W.M.P.Nos.40062 & 40063 of 2024

Tvl.Meraki Film Works
Rep. by its Proprietor,
Mr.Ibrahim Mueenuddin,
5/2, Third Cross Street,
United India Colony,
Chennai – 600 024. ... Petitioner

Vs.

Assistant Commissioner (ST),
Egmore Assessment Circle,
No.88, Mayor Ramanathan Salai,
Taluk Office Building, 2nd Floor, Spur Tank Road,
Chetpet, Chennai – 600 031. … Respondent

Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorari calling for the records relating to the impugned order dated 22.03.2024 and its consequential Demand Order dated 25.03.2024 having reference No.ZD330324164124T issued by the respondent and quash the same.

For Petitioner : Mr.Sanskar Samdaria.S

For Respondent : Mr.Harsha Raj,

Additional Government Pleader

ORDER

This writ petition has been filed challenging the impugned order passed by the respondent dated 22.03.2024 for the assessment year 2018-19.

2. It is submitted by the learned counsel for the petitioner that the petitioner is doing retail business of sound recording services and dubbing services, which is registered under the Goods and Services Tax Act, 2017. During the relevant period 2018-19, the petitioner filed its returns and paid the appropriate taxes. However, during the scrutiny of the petitioner's monthly return, it was found that there existed a difference in GSTR-3B.

3. It is submitted by the learned counsel for the petitioner that show cause notice in Form GST DRC-01 dated 27.12.2023 was issued by the respondent. Further, personal hearing was offered on 12.01.2024. However, the petitioner had neither filed its reply nor availed the opportunity of personal hearing. Hence, the impugned order came to be passed.

4. It is submitted by the learned counsel for the petitioner that neither the show cause notice 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 "View Notice and Orders" and "View Additional Notices and Orders" tabs 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.

5. Learned counsel for the petitioner would place reliance upon the recent judgment of this Court in the case of ***M/s.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.

6. 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 Additional Government Pleader for the respondent does not have any serious objection.

7. In view thereof, the impugned order dated 22.03.2024 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 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 from the date of receipt of a copy of this order, the impugned order shall stand revived.

8. Accordingly, the writ petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

10.12.2024 (vm)

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No

To:

Assistant Commissioner (ST),
Egmore Assessment Circle,
No.88, Mayor Ramanathan Salai,
Taluk Office Building, 2nd Floor, Spur Tank Road,
Chetpet, Chennai – 600 031.

J.SATHYA NARAYANA PRASAD,J.

vm

W.P.No.37080 of 2024

10.12.2024