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W.P. No.36784 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.36784 of 2024

and

W.M.P. Nos.39700, 39702 and 39703 of 2024

Subramani Babu, Proprietor,
Anandhan Enterprises,
541/3, T.H.Road, Chinna Ernavoor,
Chennai-600 057.

... Petitioner

Vs.

1.The Assistant Commissioner (ST),
Thiruvottiyur Assessment Circle,
No.32, Elephant Gate Bridge Road,
Chennai-600 003.

2.Deputy Commissioner (ST),
Avadi Zone,
2nd Floor, Integrated Commercial Taxes Complex,
No.32, Elephant Gate Bridge Road,
Chennai-600 003.

3.Axis Bank,
Thiruvottiyur Branch,
Chennai-600 019.

4.HDFC Bank,
Ponneri Branch,
Dilip Illam, No.2, New Theradi Street,
Second Cross Street, Ponneri, Chennai-601 204.



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5. Bank of Baroda,
Wimconagar Branch,
Thiruvottiyur Azax Bus stop,
Old No.665, TH Road,
Wimco nagar, Chennai-600 019.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records culminatinig in impugned order dated 15.04.2024 vide order No.GSTIN 33BYLPB8394N1ZS/2018-19 passed by the 1st Respondent and the consequential communication of the 3rd Respondent dated 20.11.2024 addressed to the petitioner and quash the same.

For Petitioner : Mr.V.Haribabu

For Respondents : Ms.Amrita Dinakaran
Government Advocate (for R1 & R2)
Mr.C.Mohan
for M/s.King & Partridge (for R4)

ORDER

The present writ petition is filed challenging the impugned order passed by the respondent dated 15.04.2024 relating to the assessment year 2018-19.

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 2018-19, the petitioner filed its returns and paid the appropriate taxes. However, on comparison of the taxable supplies reported by the petitioner in the GSTR 3B returns with Form 26 AS and GSTR 9/9C, it was noticed that



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there was mismatch between Form 26AS and GSTR 2B.

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3. It is submitted by the learned counsel for the petitioner that a notice in DRC-01 was issued on 07.08.2023. Further, reminder and personal hearing notice was issued on 26.03.2024. The petitioner submitted its reply on 03.04.2024, however the same was rejected on the premise that the reply was not supported by details or documents. It is thus 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 discrepancy.

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 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 further submitted that subsequent to the passing of the impugned order, the Respondent had recovered Rs.11,47,827/- out of the total tax demand



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of Rs.30,27,780/- which works out to more than 25% of the disputed tax and his

only request is that the same may be adjusted towards 25% of the disputed tax. It is further submitted that there is bank attachment and the same may be lifted, to which, the learned Additional Government Pleader appearing for the respondents does not have any serious objection.

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

- a) The impugned order dated 15.04.2024 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



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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 of receipt of copy of this order.

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,



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the impugned order of assessment shall stand restored.

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6. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

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Speaking (or) Non Speaking Order

Index : Yes/ No

Neutral Citation: Yes/No

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MOHAMMED SHAFFIQ, J.

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