IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.37630 of 2024
and
W.M.P.Nos.40669 and 40671 of 2024

Tvl.Sri Padma Constructions,
Represented by its partner,
Mr.Nepoliyan Vijay,
No.38/2, Harur Main Road, Kadathur Village,
Pappireddypatty, Dharmapuri 635 303. ... Petitioner

Vs.

The Deputy Commercial Tax Officer,
Harur Assessment Circle,
T.V.Ka Nagar, Varnatheertham,
Near PWD Quarters, Harur 636903. .. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records of the impugned order u/s.73 dated 19.08.2024 having reference No.ZD330824153859V for the financial year 2019-20 passed by the respondent and quash the same.

For Petitioner : Mr.M.Rajesh
for S.Anandh

For Respondent : Mr.G.Nanmaran
Special Government Pleader

ORDER

The present writ petition is filed challenging the impugned order in Ref.No.ZD330824153859V dated 19.08.2024, passed by the respondent on the premise that the same was made in violation of principles of natural justice.

2. It is submitted by the learned counsel for the petitioner that the petitioner is a registered dealer under the GST Act. During the relevant period of 2019-20, the petitioner has filed the returns and paid appropriate taxes. However, on examination of the information furnished in this return under various heads and also the information furnished in GSTR-01, GSTR-2A, GSTR-3B, it was found that there was a discrepancy viz., under declaration of ineligible ITC.

3. It is submitted by the learned counsel for the petitioner that an intimation in Form DRC01 was issued on 22.05.2024 with personal hearing on 06.06.2024. Thereafter, two more personal hearings was granted to the petitioner viz., 15.07.2024 and 09.08.2024. However, the petitioner had not responded to any of the above notices / intimation, the impugned order was thus passed confirming the proposal. Neither the

show cause notices 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 "view additional notices and orders" column of the GST Portal, thereby, the petitioner was unaware of the initiated proceedings and was thus unable to participate in the adjudication proceedings. 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.

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 Special Government Pleader appearing for the respondent does not have any serious objection.

6. In view thereof, the impugned order dated 19.08.2024 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 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. Accordingly, the Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

16.12.2024

Speaking (or) Non Speaking Order
Index : Yes/ No
spp

To

The Deputy Commercial Tax Officer,
Harur Assessment Circle,
T.V.Ka Nagar, Varnatheertham,
Near PWD Quarters, Harur 636903.

MOHAMMED SHAFFIQ, J.

spp

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