



W.P.No.37205 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.37205 of 2024

and

W.M.P.Nos.40207 and 40210 of 2024

R.Ramesh

..Petitioner

Vs.

- 1.The Deputy State Tax Officer-I,
Villupuram-II Assessment Circle,
Commercial Taxes Building,
Integrated Master Plan Complex,
Villupuram.
- 2.The Joint Commissioner (ST) (Intelligence),
Office of the Joint Commissioner (ST) (Intelligence),
Cuddalore Division,
Cuddalore.
- 3.The Manager,
Punjab National Bank,
Cuddalore.
- 4.The Executive Engineer,
Public Works Department,
Cuddalore.



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5.The Commissioner,
Corporation of Cuddalore
Cuddalore

..Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorari calling for the records of the impugned proceedings in GSTIN:33ABPPR3315K2ZE/2017-18 dated 28.06.2024, on the file of the first respondent and quash the same and pass orders.

For Petitioner : Mr.J.Kather Hussain

For Respondents : Mr.V.Prashanth Kiran
Government Advocate

ORDER

The present writ petition is filed challenging the impugned order passed by the first respondent dated 28.06.2024 relating to the assessment year 2017-18.

2. The petitioner is engaged in execution of contract works for Tamil Nadu Government Public Works Department (PWD), Tamil Nadu State Transport Corporation (TNSTC), District Rural Development Agency (DRDA), Chennai Metro Rail (CMRAL) and State Highways Department and is a registered dealer



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under the Goods and Services Act, 2017. During the relevant period, the petitioner filed its return and paid the appropriate taxes. However, during the scrutiny of the petitioner's return, the following discrepancies were noticed:

- i) Mismatch between GSTR-3B and GSTR-9C
- ii) Suppression of outward supply
- iii) Tax payable on the rent receipts have not been discharged.

2.1. Subsequently, an intimation was issued to the petitioner in Form GST ASMT 10 on 03.04.2024, followed by a Show Cause Notice in GST DRC-01 dated 06.05.2024. Further, personal hearing was offered on 06.06.2024. However, the petitioner had neither filed its reply nor availed the opportunity for a personal hearing. Hence, the impugned order came to be passed, confirming the proposal.

3. The impugned order is challenged on the premise that neither the show cause notices nor the impugned order of assessment have been served by tendering to the petitioner or by registered post, instead it was uploaded in the common portal. It was further submitted that the petitioner was unable to access the common portal and thus was unable to participate in the adjudication proceedings.



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4. It is 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. The learned counsel for the petitioner would then 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.*** 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 there is bank attachment and the same may be lifted/withdrawn, to which, the learned Government Advocate appearing for respondents 1 and 2 does not have any serious objection.

5. In view thereof, the impugned order dated 28.06.2024 is set aside and the petitioner shall deposit 25% of the disputed tax within a period of four (4) 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 (4) weeks



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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 of assessment shall stand restored. It was submitted that pursuant to the impugned order of assessment, recovery proceedings were initiated and bank accounts have been attached. In view of the order passed herein, the bank attachment shall be lifted/withdrawn forthwith on complying with 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.

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

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Speaking (or) Non Speaking Order

Neutral Citation: Yes/No

mrn

To

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MOHAMMED SHAFFIQ, J.

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