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.37758 of 2024
and
W.M.P.Nos.40824 and 40825 of 2024

Dee Pee Inks Private Limited,
Rep. by its Managing Director,
Mr.R.Jeya Kumar,
Plot No.11/30, Athipet,
Vanagaram Main Road, Chennai 600 058. ... Petitioner

Vs.

The Assistant Commissioner (ST)(FAC),
Nolambur Assessment Circle,
Chennai 600 035. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records leading to the issuance order in original GSTIN:33AACCD4269P1ZA/2018-19 dated 22.04.2024 by the respondent herein and quash the same.

For Petitioner : Ms.B.Chandrika

For Respondents : Mr.G.Nanmaran
Special Government Pleader

ORDER

The present writ petition is filed challenging the impugned order dated 22.04.2024, passed by the respondent in GSTIN33AACCD4269P1ZA/2018-19 on the premise that the same is made in violation of principles of natural justice.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in the business of manufacturing and supplying of industrial printing ink and is registered under the GST Act. During the relevant period of 2018-19, the petitioner has filed the returns and paid appropriate taxes. However, on scrutiny of return, the following discrepancies were found:

i) Mismatch between GSTR 3B and GSTR 1

ii) Mismatch between GSTR 3B and GSTR 2A

3. It is submitted by the learned counsel for the petitioner that a notice in Form DRC01 was issued on 29.11.2023. In response to the show cause notice the petitioner filed its reply on 13.12.2023. Thereafter, reminder dated 11.03.2024 with personal hearing on 20.03.2024 and another reminder dated 13.04.2024 with personal hearing on 18.04.2024

was issued to the petitioner. Thereafter, the impugned order came to be passed wherein it was held that the petitioner had not responded to any of the above reminder notices and had not appeared for personal hearing. and did not submit any documentary evidence in their reply dated 13.12.2023 and confirmed the proposal. 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 discrepancies.

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.

5. It was further submitted that the petitioner is ready and willing to pay 25% 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. By consent of both parties, the writ petition stands disposed of on the following terms:

a) The impugned order dated 22.04.2024 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 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 of 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, the impugned order of assessment shall stand restored.

7. 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 Assistant Commissioner (ST)(FAC),
Nolambur Assessment Circle,
Chennai 600 035.

MOHAMMED SHAFFIQ, J.

spp

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