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W.P.No.37757 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.37757 of 2024

and

W.M.P.Nos.40822 and 40823 of 2024

Tvl.Jayanthi Transformers Pvt.Ltd.
Represented by its Director
Manoj Dharman

..Petitioner

Vs.

Assistant Commissioner ST
Porur Assessment Circle,
No.4 109, 1st Floor,
Bangalore Highway Road, Varadharajapuram,
Nazaratpet, Chennai- 600 123.

..Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India,
praying to issue Writ of Certiorari, calling for respondent order dated 25.04.2024
in GSTIN 33AABCJ1044M1ZS/2018-19 and quash the same and pass orders.

For Petitioner : Mr.Adithya Reddy

For Respondent : Mr.G.Nanmaran
Special Government Pleader



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ORDER

The present Writ Petition is filed challenging the impugned order passed by the respondent dated 25.04.2024 relating to the assessment year 2018-19.

2. The petitioner is engaged in the business of manufacturing of electrical transformers. The petitioner is a registered dealer under Goods and Services Act, 2017. During the relevant period, the petitioner had filed its return and paid appropriate taxes. However, on scrutiny of the E-way bills, it was found that the petitioner have generated multiple E-way bills for the same invoice number with different values. Further, on verification of the monthly returns, it was revealed that the petitioner have not reported the taxable value of supplies covered by four E-way bills.

2.1. Pursuant thereto, a show notice in DRC 01 was issued to the petitioner on 24.01.2024 and reminder on 20.03.2024. The petitioner had responded vide reply dated 20.03.2024. However, the impugned order came to be passed, rejecting the reply filed by the petitioner, on the premise that it was not supported by



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documentary evidence.

3. 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***. 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.

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

- a) The impugned order dated 25.04.2024 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,



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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



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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.

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

19.12.2024

Speaking (or) Non Speaking Order
Neutral Citation: Yes/No
mrn



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To
The Assistant Commissioner ST
Porur Assessment Circle,
No.4 109, 1st Floor,
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MOHAMMED SHAFFIQ, J.

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