IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2024

CORAM:

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.37448 of 2024
and
W.M.P.Nos.40462 & 40463 of 2024

Tvl.B.Rama Contractor,
Rep by its Proprietor Tmt.Balakrishnan Rama,
No.3/76A, Ram Nagar,
Virattikuppam Road,
Virattikuppam,
Tamil Nadu – 605 602. ...Petitioner

-Vs-

1.The Commercial Tax Officer/The State Tax Officer (Int),
Inspection – IV,
Cuddalore Division,
No.1, Vallalar Nagar, Manjakuppam,
Cuddalore – 607 001.

2.The Joint Commissioner,
O/o. The Joint Commissioner (ST) (Int),
Cuddalore Division,
No.1, Vallalar Nagar, Manjakuppam,
Cuddalore – 607 001.

3.The Deputy State Tax Officer,
Office of the Deputy Commissioner (ST),
Integrated Commercial Taxes Building,
Villupuram – 605 602. ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a direction in the nature of Writ of Certiorari, to call for the records in the order passed by the first respondent in the GSTIN:33ARSPR9455KIZU/2019-2020 dated 19.08.2024 and the third respondent's consequential Form GST DRC-01D dated 18.11.2024 and to quash the same respectively as arbitrary and illegal and pass such further orders.

For Petitioner	:	Mr.A.Bakkiyalakshmi
For Respondents	:	Mr.V.Prashanth Kiran Government Advocate (Tax)

ORDER

Mr.V.Prashanth Kiran, learned Government Advocate (Tax) takes notice on behalf of the respondents. With the consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

2. The present writ petition is filed challenging the impugned order passed by the first respondent dated 19.08.2024 relating to the assessment year 2019-20.

3. The petitioner is engaged in the business of Supplier and Services of Works Contract to Block Development Office, Kanai & Villupuram, District Rural Development Agency, Villupuram, Divisional Engineer, Highways and Rural Works Department, District Rural Development Agency, Kallakurichi,

Superintending Engineer and Highways Department and is registered under the Goods and Services Tax Act, 2017.

4. Learned counsel for the petitioner submitted that pre show cause Notice in DRC 01A dated 06.05.2024 and the subsequent notices like show cause notice dated DRC 01 dated 29.05.2024, Reminder Notices 1,2,3 issued on 01.07.2024, 19.07.2024, 29.07.2024. Further, personal hearing was offered on 28.06.2024. However, the petitioner had neither filed its reply nor availed the opportunity for a personal hearing. It is submitted by the learned counsel for the petitioner that neither the show cause notices nor the impugned order of assessment have been served on the petitioner by tender or sending it by RPAD, instead it had been uploaded in 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, they would be able to explain the alleged discrepancies.

5. 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.

6. It was further submitted that the petitioner is ready and willing to pay 10% 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, to which the learned Government Advocate appearing for the respondents does not have any serious objection.

7. In view thereof, the impugned order passed by the first respondent dated 19.08.2024 is hereby set aside and this Court is inclined to pass the following orders:

a) The petitioner shall deposit 10% of the disputed tax within a period of two weeks from the date of receipt of a copy of this order.
b) 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.
c) If any such objections are filed, the same shall be considered by the

respondents and order shall be passed in accordance with law after affording a reasonable opportunity of hearing to the petitioner.

d) If the above deposit is not paid or objections are not filed within the stipulated period, i.e., two weeks and four weeks respectively from the date of receipt of a copy of this order, the impugned order of assessment shall stand revived.

Accordingly, the **Writ Petition stands disposed of with the above observations and directions**. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

09.12.2024

cda
Index : Yes / No
Speaking/Non Speaking order

J.SATHYA NARAYANA PRASAD, J.

cda

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