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.37885 of 2024
and
W.M.P.Nos.40961 and 40962 of 2024

M/s.Shri Akshaya Granites
Represented by its Proprietor,
Mr.K.Sundaresan ..Petitioner

Vs.

The Assistant Commissioner (ST)
Krishnagiri II Circle,
Krishnagiri -635 101 ..Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorari, calling for connected records pertaining to the impugned proceedings of the respondent herein made in reference No.GST33HZTPS5083Q1Z1/2017-2018 dated 30.01.2024 and quash the same as illegal.

For Petitioner : Mr.Manoharan S Sundaram

For Respondent : Mr.C.Harsha Raj
Additional Government Pleader

ORDER

The present Writ Petition is filed challenging the impugned order passed by the respondent dated 30.01.2024 relating to the assessment year 2017-18.

2. 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 verification of the monthly returns, it was noticed that the declared taxable value of supplies was much lesser in comparison to the value of purchases disclosed in GSTR 2 A for the period 2017-18. In view of the difference between the purchase value and the taxable value of the outward supplies, the difference was proposed to be treated as suppressed value of taxable supplies.

2.1. Pursuant thereto, a notice in DR-01A was issued to the petitioner on 12.09.2023, followed by a show cause notice in DRC-01 on 14.12.2023. Further, opportunity of personal hearing was granted on 22.01.2024. 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 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 Additional 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 30.01.2024 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.

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

To
The Assistant Commissioner (ST)
Krishnagiri II Circle,
Krishnagiri -635 101

MOHAMMED SHAFFIQ, J.

mrn

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