



W.P. No.37903 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.37903 of 2024

and

W.M.P. Nos.40991 and 40994 of 2024

Tvl.Hanumant Rocks,
Represented by its Proprietor,
Madan Mohan

... Petitioner

Vs.

1.The Deputy State Tax Officer-1,
Krishnagiri-II Assessment Circle,
No.559, Kallakkurukki Village,
Saamanthamalai, Krishnagiri-635115

2.The Deputy Commissioner (ST) (GST) (Appeal)
Erode and Salem
Integrated Commercial Taxes Building
Room No.233, 2nd floor,
No.17, Pitchards Road, Salem -636007

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the impugned order of the first respondent passed in GST:33CVNPS4059M1ZU/2020-2021 dated 08.02.2024 and quash the same and pass orders.

For Petitioner

: Mr.Adithya Reddy

For Respondent

: Mr.V.Prashanth Kiran
Government Advocate

ORDER



W.P. No.37903 of 2024

WEB COPY

The present Writ Petition is filed challenging the impugned order passed by the first respondent dated 08.02.2024 relating to the assessment year 2020-21.

2. The petitioner is engaged in the business of manufacturing and trading of granites and 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 petitioner has claimed excess input tax credit on inward RCM supplies.

2.1. Pursuant thereto, a notice in DRC-01A was issued to the petitioner on 24.08.2023, followed by a show cause notice in DRC-01 on 30.12.2023. Further, personal hearing was offered on 30.01.2024. However, the petitioner had neither filed its reply nor paid the appropriate taxes. Hence, the impugned order came to be passed, confirming the proposal. Aggrieved by the same, the petitioner had filed an appeal and the same was rejected on the ground of barred by limitation.

3. It is submitted by the learned counsel for the petitioner that neither the show cause notices nor the impugned order of assessment has been served on the petitioner by tender or sending it by RPAD, instead it had been uploaded in the



W.P. No.37903 of 2024

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.

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*. 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. It is further submitted that subsequent to the passing of the impugned order, the petitioner had filed an appeal along with 10% pre-deposit and his only request is that the same may be adjusted towards 25% of the disputed tax, to which the learned Government Advocate appearing for the respondent does not have any serious objection, while seeking liberty to verify the correctness of the statement relating to remittance made by the petitioner.

5. By consent of parties, the writ petition stands disposed of on the



W.P. No.37903 of 2024

following terms:

WEB COPY

- a) The impugned order dated 08.02.2024 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



W.P. No.37903 of 2024

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.

6. There shall be no order as to costs. Consequently, connected



W.P. No.37903 of 2024

miscellaneous petition is closed.

WEB COPY

21.12.2024

Speaking (or) Non Speaking Order

Index : Yes/ No

Neutral Citation: Yes/No

mrn

To:

- 1.The Deputy State Tax Officer-1,
Krishnagiri-II Assessment Circle,
No.559, Kallakkurukki Village,
Saamanthamalai, Krishnagiri-635115
- 2.The Deputy Commissioner (ST) (GST) (Appeal)
Erode and Salem
Integrated Commercial Taxes Building
Room No.233, 2nd floor,
No.17, Pitchards Road, Salem -636007



WEB COPY



W.P. No.37903 of 2024

MOHAMMED SHAFFIQ, J.

mrn

W.P. No.37903 of 2024
and
W.M.P. Nos.40991 and 40994 of 2024

21.12.2024