IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **10.12.2024**

CORAM :

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.37624 of 2024
and
W.M.P.Nos.40659 & 40661 of 2024

M/s.Delta Engineering Company,
Rep.by its Proprietor Mr.S.Ramkumar ... Petitioner

Vs.

1. The State Tax Officer,
   Chengalpattu Assessment Circle,
   No.16A, 1st Floor, 1st Main Road,
   Anna Nagar, Chengalpattu 603 001.

2. The Deputy Commissioner(ST),
   Chengalpattu Zone,
   No.26, 2nd Floor, Abirami Complex,
   Kancheepuram Main Road,
   Chengalpattu 603 001. … Respondents

Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorari, calling for the records on the file of the 1st respondent in GSTIN : 33AINPR7552D1Z2/2018-19 dated 23.04.2024 and quash the same without violation of principles of natural justice.

For Petitioner	:	M/s.D.Vijayakumar
For Respondent	:	M/s.Amirta Dinakaran (T) Govt.Advocate.

O R D E R

The present Writ Petition is filed challenging the impugned order passed by the first respondent dated 23.04.2024 for the Financial year 2018-19.

2. The petitioner is engaged in the business of lathe works and is registered under Goods and Services Act, 2017. During the relevant period, the petitioner had filed its return and paid appropriate taxes. While scrutinizing the petitioner's return, it was found that there was a mismatch between GSTR-3B and GSTR-2A. Thereafter, the second respondent issued a garnishee notice to the petitioner and informed about the notice for recovery by the GST Authorities.

3. It is submitted by the learned counsel for the petitioner that an intimation in ASMT-10 was issued on 05.10.2023 followed by a notice in Form DRC-01 on 12.01.2024. The petitioner was also granted an opportunity of personal hearing on 08.03.2024, followed by reminders on 02.03.2024, 16.03.2024 and 02.04.2024 respectively. However, the petitioner had not responded to any of the above notices / intimation, nor availed of the opportunity of personal hearing, the impugned order was thus passed confirming 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 discrepancy between GSTR-3B and GSTR-2A.

4. 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 then 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 they may be granted one final opportunity before the adjudicating authority to put forth their objections to the proposal.

6. In view thereof, the impugned order is set aside and the petitioner shall deposit 25% of the disputed tax within a period of four (4) weeks from the date of receipt of a copy of this order. Therefore, garnishee notice issued by the second respondent to the petitioner is null and void. 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. If the above deposit is not paid or objections are not filed within the stipulated period, i.e., four weeks from the date of receipt of a copy of this order, the impugned order shall stand restored.

7. This Writ Petition is disposed of with the aforesaid observation and direction. No costs. Consequently, connected miscellaneous petitions are closed.

10.12.2024

Index	:	Yes/No
Speaking Order	:	Yes/No
Neutral Citation	:	Yes/No

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J.SATHYA NARAYANA PRASAD,J.

kkd

To :

1. The State Tax Officer,
   Chengalpattu Assessment Circle,
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