IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.37913 of 2024
and
W.M.P.Nos.41009 and 41010 of 2024

Tvl.S.R.Enterprises,
Rep. by its Proprietrix Mrs.Thandralinzagam Radhika,
No.18, Old Well Street,
Thiruvottiyur, Chennai 600 019. ..Petitioner

Vs.

The Deputy State Tax Officer-1,
Thiruvottiyur Assessment Circle,
Integrated Commercial Taxes Office Building,
Thiruvallur Division, No.32, Elephant Gate Bridge Road,
Chennai 600 003. ..Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorari to call for the records of the respondent in order dated 24.04.2024 in GSTIN:33AZDPR0746C1ZQ/2018-19 and quash the same as illegal, arbitrary and in violation principle of natural justice.

For Petitioner : M/s.C.Rekhakumar

For Respondent : Mr.T.N.C.Kaushik,
Additional Government Pleader.

ORDER

The present writ petition is filed challenging the impugned order passed by the first respondent dated 24.04.2024 relating to the assessment year 2018-19.

2. It is submitted by the learned counsel for the petitioner that the petitioner is a supplier of cleaning accessories to various Government Department including Greater Chennai Corporation and is a registered dealer under the Goods and Services Act, 2017. During the relevant period viz., 2018-19, the petitioner filed its return and paid the appropriate taxes. However, during the scrutiny of the petitioner's return, it was *inter alia* noticed that there were certain discrepancies between GSTR-3B and Form 26AS and between GSTR-3B and GSTR-9/9C.

3. It is submitted by the learned counsel for the petitioner that an intimation in ASMT-10 was issued on 03.07.2023, followed by Show Cause Notice in FORM DRC-01 on 14.08.2023. Further, personal hearing was offered on 05.04.2024 and

12.04.2024. 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.

4. It is submitted by the learned counsel for the petitioner that the impugned order of assessment has not been served on the petitioner by tender or sending it by RPAD, instead it had been uploaded under the View Additional Notices and Orders 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 ***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,*** to submit that this court has remanded the matter back in similar circumstances subject to payment of 25% of

the disputed taxes. 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, to which the learned Additional Government Pleader appearing for the respondent does not have any serious objection.

6. In view thereof, the impugned order dated 24.04.2024 is set aside and the petitioner shall deposit 25% of the disputed tax within a period of four weeks from the date of receipt of a copy of this order. 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. 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 of assessment shall stand restored.

7. Accordingly, the Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

16.12.2024

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

To

The Deputy State Tax Officer-1,
Thiruvottiyur Assessment Circle,
Integrated Commercial Taxes Office Building,
Thiruvallur Division, No.32, Elephant Gate Bridge Road,
Chennai 600 003.

MOHAMMED SHAFFIQ, J.

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