IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.37749 of 2024
and
W.M.P.Nos.40811 and 40812 of 2024

Tvl.Surya Motors,
Represented by its Partner,
Mr.Mahaveer Purmia (M/A 54 yrs)
No.173, Mount Poonamalle High Road,
Kattupakkam, Sriperumbudur,
Chennai 056. ... Petitioner

Vs.

The Assistant Commissioner (ST),
Poonamalle Assessment Circle,
Varadharajapuram, Nazarathpet,
Chennai 123. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records on the file of the respondent and to quash the impugned assessment order dated 08.08.2024 bearing No.33ABGFS3211C1ZU/2019-20 passed by the respondent as arbitrary.

For Petitioner : Mr.J.Ashish

For Respondent : Ms. Amrita Dinakaran,
Government Advocate.

ORDER

The present writ petition is filed challenging the impugned order dated 08.08.2024 passed by the respondent relating to the assessment year 2019-20.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in the business of retailing the motorcyles and is registered under the Goods and Services Tax Act, 2017. During the relevant period viz., 2019-20, the petitioner filed its returns and paid the appropriate taxes. However, during the scrutiny of the petitioner's return, it was noticed that there were certain discrepancies between GSTR-3B and GSTR-1. Pursuant thereto, an intimation in Form DRC-01A was issued on 23.04.2024, followed by a notice in DRC-01 on 09.05.2024 and reminders with personal hearing on 24.06.2024 and 18.07.2024. However, the petitioner had neither filed its return nor availed the opportunity for a personal hearing. Hence, the impugned order came to be passed, confirming the proposal.

2. 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 under the Additional Notices tab in the GST Portal, thereby, the petitioner was unaware of the initiated proceedings and was thus unable to participate in the adjudication proceedings.

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. The learned counsel for the petitioner would then 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.

5. 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. It is submitted that there is bank attachment and the same may be lifted, to which the learned Government Advocate appearing for the respondent does not have

any serious objection.

6. In view thereof, the impugned order dated 08.08.2024 is set aside and the petitioner shall deposit 10% of the disputed tax within a period of four weeks from the date of receipt of a copy of this order. 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. 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 respectively from the date of receipt of a copy of this order, the impugned order of assessment shall stand restored. It was submitted that pursuant to the impugned order of assessment, recovery proceedings were initiated and bank accounts have been attached. In view of the order passed herein, the bank attachment shall be lifted forthwith on complying with the above condition i.e., payment of 25% of disputed taxes within a period of two weeks from the date of receipt of a copy of this order.

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

12.12.2024

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

To:

The Assistant Commissioner (ST),
Poonamalle Assessment Circle,
Varadharajapuram, Nazarathpet,
Chennai 123.

MOHAMMED SHAFFIQ, J.

shk

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