IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.37906 of 2024
and
W.M.P.Nos.41005, 41006 and 41007 of 2024

M/s.Tamil Nadu Housing Board,
Represented by its Financial Adviser,
Mr.V.Anbazhagan,
S/o.Veerabathran,
Aged 57 years,
No.493, Anna Salai,
Nandanam, Chennai 600 035.
Now at:
CMDA Complex, E & C Market Road,
Koyambedu,
Chennai 600 107. ... Petitioner

Vs.

1.The Assistant Commissioner (ST)
Nandanam Assessment Circle, South -II,
No.46, Pasumpon Muthuramalingam Salai,
R.A.Puram, Chennai 600 028.

2.The Deputy Commissioner (ST), South-II Zone,
Integrated Building of Registration & Commercial Tax Department,
7th Floor, Room No.724,
Nandanam, Chennai 600 035.

3.The Bank Manager,
State Bank of India,
474, Anna Salai,
Chennai 600 035. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records in Reference No.ZD330424229025T dated 29.04.2024 under Section 73 of the TNGST Act, 2017 along with summary of the order dated 29.04.2024 on the file of the first respondent relating to the F.Y 2018-19 and quash the same and further direct the first and second respondents to lift the bank attachment in Bank Account of the Tamil Nadu Housing Board vide A/c No:10610747308 held with the third respondent.

For Petitioner : Mr.I.Dinesh

For respondents : Mr.C.Harsha Raj,
Additional Government Pleader.

ORDER

The present writ petition is filed challenging the impugned order passed by the first respondent dated 29.04.2024 relating to the assessment year 2018-19.

2. It is submitted by the learned counsel for the petitioner that the petitioner is registered under the Goods and Services Tax Act, 2017. During the relevant period of 2018-19, the petitioner filed its returns and paid the appropriate taxes. However, on verification of the petitioner's monthly return, it was noticed that there were certain discrepancies between GSTR-1 and GSTR-3B.

3. It is submitted by the learned counsel for the petitioner that an intimation in GST DRC-01 was issued on 15.11.2023, followed by reminders on 09.02.2024, 05.04.2024 and 20.04.2024. Further, personal hearing was offered on 10.04.2024 and 24.04.2024. In response, the petitioner had filed its reply on 25.04.2024. Though the reply was filed by the petitioner, the same has been rejected on the premise that the petitioner had failed to furnish any documentary evidence. 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 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. It is submitted that there is bank attachment and the same may be lifted to which the learned Additional Government Pleader appearing for the respondents does not have any serious objection.

6. In view thereof, the impugned order dated 29.04.2024 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 respondents 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. 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
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To:

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MOHAMMED SHAFFIQ, J.

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