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W.P.No.37874 of 2024

IN THE HIGHCOURT OF JUDICATURE AT MADRAS

DATED : 11.12.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.37874 of 2024

and

W.M.P.Nos.40945 and 40946 of 2024

Tvl.Sreevatsa Tube Corporation,
Rep. by its director Mr.C.V.Ravindranath,
No.29/2, Sembudoss Street,
Chennai 600 001.

... Petitioner

Vs.

The Assistant Commissioner (ST),
Broadway Assessment Circle,
Room No.304, I.C.T. Complex,
Elephant Gate Bridge Road,
Chennai 3.

... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records on the file of the respondent in GSTIN: 33AAACS3098R1ZS/2018-19 dated 27.04.2024 and quash the same.

For Petitioner : Mr.D.Vijayakumar

For Respondents : Mr.C.Harsha Raj
Additional Government Pleader

ORDER



W.P.No.37874 of 2024

WEB COPY

The present writ petition is filed challenging the impugned order dated 27.04.2024, passed by the respondent in GSTIN: 33AAACS3098R1ZS/2018-19 on the premise that the same is made in violation of principles of natural justice.

2. It is submitted by the learned counsel for the petitioner that the petitioner is a distributor and dealer in pipes and is registered under the GST Act. During the relevant period of 2018-19, the petitioner has filed the returns and paid appropriate taxes. However, on verification of the returns filed by the petitioner, following discrepancies were identified:

- i) Mismatch between outward supply declared in GSTR 3B and GSTR 1
- ii) Mismatch between GSTR 3B and GSTR 2A
- iii) TDS mismatch in GSTR 7, GSTR 3B and GSTR 1

3. It is submitted by the learned counsel for the petitioner that a notice in Form DRC01 was issued on 30.01.2024 with personal hearing on 14.02.2024. This was followed by a reminder notice on 16.04.2024. However, the petitioner had not appeared for personal hearing and the impugned order was thus passed confirming the proposal. It is submitted by the learned counsel for the petitioner



W.P.No.37874 of 2024

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 "view additional notices" column in GST Portal, thereby, the petitioner was unaware of the impugned order of assessment. 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 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*, to submit that this court has remanded the matter back in similar circumstances subject to payment of 25% of the disputed taxes.

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



W.P.No.37874 of 2024

WEB COPY

6. By consent of both parties, the writ petition stands disposed of on the following terms:

- a) The impugned order dated 27.04.2024 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



W.P.No.37874 of 2024

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 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.



W.P.No.37874 of 2024

WEB COPY

7. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

11.12.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
spp
To

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MOHAMMED SHAFFIQ, J.

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