IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

WP NO. 38110 of 2024
and
WMP NOS. 41237 & 41240 OF 2024

Vasanthakumar Thangamalar,
D/o.Late.Vasanthakumar,
Proprietor of M/s.Thangam Enterprises,
At No.26, Natesan Street, T.Nagar, Chennai 600017.

...Petitioner

Versus.

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

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorarified Mandamus, to call for the records of the Impugned Order Ref-No.ZD330424012793N dated 02.04.2024 passed by the Respondent and quash the said Impugned Order consequentially direct the Respondent to provide the Petitioner with an opportunity of fresh hearing.

For Petitioner : Mr.S.Sathish Kumar
For Respondent : Ms.Amrita Dinakaran
Government Advocate

ORDER

The present Writ Petition is filed challenging the impugned order dated 02.04.2024 for the relevant assessment period 2018-2019.

2. Ms.Amrita Dinakaran, learned Government Advocate, takes notice on behalf of the respondent. By consent of the parties, the main Writ Petition is taken up for disposal at the admission stage.

3. The petitioner is a proprietor of M/s.Thangam Enterprises and is registered under Goods and Services Act, 2017. During the relevant period, the petitioner had filed its return and paid appropriate taxes. On scrutiny of the returns and comparison of Input Tax Credit claimed by the petitioner, it was noticed that there was mismatch between GSTR-3B and GSTR-2A.

4. Subsequently, a notice in Form DRC-01A dated 01.11.2023 and a show cause notice in Form DRC-01 dated 14.12.2023 were issued to the petitioner through GST portal, followed by three reminders and thereafter, an opportunity of personal hearing was also granted to the petitioner. However, the petitioner neither filed its reply nor availed an opportunity of personal hearing. Hence, the impugned order came to be passed, confirming the proposals dated 02.04.2024. In the

meantime, yet another order came to be passed by the respondent vide order dated 10.04.2024, in respect of alleged discrepancies between GSTR-3B and GSTR-2A.

5. The learned counsel for the petitioner submitted that a rectification application was filed by the petitioner on 26.10.2024, on the premise that two orders have been passed for the subject matter on 02.04.2024 and 10.04.2024. It was thus submitted that the order dated 02.04.2024 may be dropped. Further, he would submit that the respondent while considering the above rectification proceedings dated 19.11.2024 sustained the impugned order dated 02.04.2024. The present Writ Petition is filed challenging the impugned order dated 02.04.2024.

6. It is submitted by the learned counsel for the petitioner that the petitioner may be granted one more opportunity to substantiate its claim and also to explain the alleged discrepancies before the respondent. 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***. 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 Government Advocate appearing for the respondent does not have any serious objection.

7. In view thereof, the impugned order dated 02.04.2024 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. 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. If the above deposit is not paid or objections are not filed within the stipulated period, i.e., four weeks and four weeks respectively from the date of receipt of a copy of this order, the impugned order of assessment shall stand restored.

8. With the above direction, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

18.12.2024

Speaking (or) Non Speaking Order
Index:Yes/No
Neutral Citation: Yes/No
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MOHAMMED SHAFFIQ, J.

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

W.P.No.38110 of 2024

18.12.2024