IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.37974 of 2024
and
WMP Nos.41058 & 41060 of 2024

The Childs Trust,
Represented by its Chief Financial Officer
S Rengarajan
12A, Nageswara Road, Chennai-600 034. ... Petitioner

Versus

1. Deputy State Tax Officer 1,
Valluvarkottam Assessment Circle,
No.1, Greams Road, Chennai-600 006.

2. Assistant Commissioner ST,
Valluvarkottam Assessment Circle,
No.1, Greams Road, Chennai-600 006. ... Respondents

**PRAYER**: Writ Petition filed under Article 226 of the Constitution of India seeking for a Writ of Certiorari, to call for the impugned order of the First Respondent passed in GSTIN:33AAAAT2552P1ZA/2018-19 dated 12.04.2024 and quash the same.

For Petitioner : Ms.A.Divya
For Respondents : Mr.V.Prashanth Kiran
Government Advocate

**ORDER**

The present Writ Petition is filed challenging the impugned order dated 12.04.2024 passed by the first respondent relating to the assessment year 2018-19.

2. Mr.V.Prashanth Kiran, learned Government Advocate takes notice on behalf of the respondents. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The petitioner is engaged in the Health Care Service Industry and is registered under Goods and Services Act, 2017. During the relevant period, the petitioner had filed its return and paid appropriate taxes. However, on verification of the monthly returns filed by the petitioner, it was found that there were certain discrepancies between GSTR-1 and GSTR-3B.

3.1. Pursuant thereto, a notice in Form ASMT-10 dated 17.10.2023, followed by a show notice in Form GST DRC-01 dated 11.01.2024 were issued to the petitioner through GST common portal, and thereafter, a personal hearing opportunity was also granted to the petitioner. However, the petitioner had neither filed its reply nor paid the taxes and also not availed an opportunity of personal hearing. Hence, the impugned order came to be passed, confirming the proposal.

4. The impugned order is challenged on the premise that the notices and orders were uploaded under the “view additional notices and orders” tab on the GST Portal, thereby, the petitioner was unaware of the initiated proceedings and thus unable to participate in the adjudication proceedings.

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***. 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 respondents does not have any serious objection.

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

a) The impugned order dated 12.04.2024 is set aside.

b) The petitioner shall deposit 25% of the disputed taxes as admitted by the learned counsel for the petitioner and the respondents, 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 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 first 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.

7. There shall be no order as to 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
1. Deputy State Tax Officer 1,
Valluvarkottam Assessment Circle,
No.1, Greams Road, Chennai-600 006.
2. Assistant Commissioner ST,
Valluvarkottam Assessment Circle,
No.1, Greams Road, Chennai-600 006

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