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.38194 of 2024
and
W.M.P.Nos.41312, 41314, 41316 and 41317 of 2024

M/s Concord Travels and Tours
Represented by its partner Mr.Harish Mathur
E-38, Hauz Khas Main Market,
Near Geeta Bhawan Mandir,
New Delhi 110 016.
Previously at:
766,
Shakti Tower-1,
Anna Salai, Chennai, Tamil Nadu 600 002. ... Petitioner

Vs.

1.Deputy State Tax Officer-II,
Anna Salai Assessment Circle,
PAPJM Annex Building, IV Floor,
1, Greams Road,
Chennai 600 006.

2.Assistant Commissioner,
Anna Salai Assessment Circle,
PAPJM Annex Building, IV Floor,
1, Greams Road,
Chennai 600 006. ... 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 of the first respondent contained in its order dated 23.04.2024 and all consequential proceedings thereto, including order under Form DRC-07 dated 24.04.2024 bearing Reference No:ZD330424185344G for the Financial Year – FY 2018-19 as arbitrary, illegal and unjust and to consequently, direct the respondents to forbear from taking any coercive action against the petitioner, including any recovery proceedings.

For Petitioner	: Mr.Suhrith Parthasarathy
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 23.04.2024 relating to the assessment year 2018-19.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in the business of operating tours and travels and 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 was an alleged mismatch between GSTR-3B and GSTR-2A.

3. It is submitted by the learned counsel for the petitioner that an

intimation in ASMT-10 was issued on 04.09.2023, followed by Show Cause Notice on 17.11.2023 and reminders on 24.02.2024, 29.03.2024, 08.04.2024. However, the petitioner had neither filed its reply nor availed the opportunity for a personal hearing. Hence, the impugned order came to be passed, confirming the proposal.

4. It is submitted by the learned counsel for the petitioner that the petitioner's registration certificate was cancelled on 01.06.2020 and therefore, the petitioner had no occasion to check the GST Portal. Further, neither the Show Cause Notice nor the impugned order of assessment has 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 23.04.2024 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
shk

MOHAMMED SHAFFIQ, J.

shk

To:

1.Deputy State Tax Officer-II,
Anna Salai Assessment Circle,
PAPJM Annex Building, IV Floor,
1, Greams Road,
Chennai 600 006.

2.Assistant Commissioner,
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