IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.38221 of 2024
and
W.M.P.Nos.41356 and 41359 of 2024

UK Security Services,
Represented by its Proprietor Umashankar Kishore Pandey ..Petitioner

Vs.

1.Assistant Commissioner (ST)
Medavakkam Assessment Circle,
Chennai.

2.State Bank of India,
2nd Floor, Kasturba Nagar,
Adyar, Chennai -600020. ..Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorarified Mandamus calling for the records of the first respondent herein in impugned Order passed by the first respondent in GSTIN :33AIDPK0233G1ZX/2018-2019 dated 26.04.2024 and consequential DRC 07 in Ref No.ZD330424206873 dated 26.04.2024 for the FY 2018-19 passed by the first respondent and quash the same and further direct the first respondent to lift the attachment of the bank attachment of the petitioner held in Current A/c No.00000010792459149 with second respondent and pass orders.

For Petitioner : Ms.G.Vardini Karthik

For Respondent : Mr.C.Harsh Raj
Additional Government Pleader
for first respondent

ORDER

The present writ petition is filed challenging the impugned order passed by the first respondent dated 26.04.2024 relating to the assessment year 2018-19.

2. The petitioner is an ISO certified agency offering a complete range of security services and is registered dealer under the Goods and Services Act, 2017. During the relevant period, the petitioner filed its return and paid the appropriate taxes. However, during the scrutiny of the petitioner's return, the following discrepancies were noticed:

i) Mismatch in turnover between GSTR 1 and GSTR 3B

ii) Mismatch in turnover between GSTR 1 and GSTR 7

iii) Belated payment of tax

2.1. Subsequently, an intimation was issued to the petitioner in ASMT 10 on 22.08.2023, followed by a Show Cause Notice in DRC-01 dated 16.01.2024. Further, an opportunity of personal hearing was also granted on 22.01.2024. 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.

3. The impugned order is challenged on the premise that neither the show cause notices nor the impugned order of assessment have been served by tendering to the petitioner or by registered post, instead it was uploaded in the common portal. It was further submitted that the petitioner was unable to access the common portal and thus was unable to participate in the adjudication proceedings.

4. 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. The learned counsel for the petitioner would then 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 they may be granted one final opportunity before the adjudicating authority to put forth their objections to the proposal. It is further 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.

5. In view thereof, the impugned order dated 26.04.2024 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

respectively 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 four weeks from the date of receipt of a copy of this order.

6. Accordingly, the Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

13.12.2024

Speaking (or) Non Speaking Order
Neutral Citation: Yes/No
mrn

To
1.Assistant Commissioner (ST)
Medavakkam Assessment Circle,
Chennai.

2.State Bank of India,
2nd Floor, Kasturba Nagar,
Adyar, Chennai -600020.

MOHAMMED SHAFFIQ, J.

mrn

W.P.No.38221 of 2024

13.12.2024