IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.38289 of 2024
and
W.M.P.Nos.41445 and 41447 of 2024

JPR INKJET Solutions
Represented by its Managing Partner,
Mr.R.Jeyakumar,
No.11/30, 2nd Floor, Athipet Vanagaram Main Road,
Athipet, Chennai, Tamil Nadu 600 058. ... Petitioner

Vs.

1.The Assistant Commissioner,
Vanagaram Assessment Circle
Chennai 600 123.

2.The Branch Manager,
Bank of India,
No.3, Ethiraj Swamy Salai,
MR Nagar, Chennai 600 118. ... 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 leading to the issuance of assessment order bearing reference number ZD330424096151N dated 12.04.2024 by the first respondent herein and quash the same and direct the first respondent herein to lift the bank attachment made vide bank attachment notice bearing reference No.GST/33AAJFJ4833B1ZQ dated 17.10.2024.

For Petitioner : M/s.B.Chandrika

For Respondents : Mr.G.Nanamaran,
Special Government Pleader for R1.

ORDER

The present writ petition is filed challenging the impugned order passed by the first respondent dated 12.04.2024 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 manufacturing and supplying of industrial printing ink and 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 information furnished in the petitioner's return in GSTR-01, GSTR-2A, GSTR-3B and other records available, the following discrepancies were noticed viz.,

i. Reconciliation of E-way bill turnover with GSTR-01

ii.Under declaration of Ineligible ITC

iii.ITC claimed from cancelled dealers, return defaulters and tax non-payers.

3. It is submitted by the learned counsel for the petitioner that an intimation in Form GST DRC-01A on 25.10.2023, followed by a Show Cause

Notice in DRC-01 was issued on 31.01.2024. In response, the petitioner had filed its reply on 28.02.2024. However, the impugned order came to be passed, confirming the proposal merely stating that the petitioner had neither filed its objections nor appeared for personal hearing.

4. It is submitted by the learned counsel for the petitioner that 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 Special Government Pleader appearing for the first respondent does not have any serious objection.

6. In view thereof, the impugned order dated 12.04.2024 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 first 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 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.

16.12.2024

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

MOHAMMED SHAFFIQ, J.

shk

To:

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Chennai 600 123.

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