WEB COPY



**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 13.12.2024**

**CORAM**

**THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ**

**W.P.No.38230 of 2024**

M/s.Ecopmin Technologies Pvt.Ltd.,
Represented by its Director Mr.Vinoth Perumal. ..Petitioner

Vs.

1.Assistant Commissioner (ST)(FAC),
Nolambur Assessment Circle,
Room No.353, 3rd Floor, Nandanam,
Chennai-600 035.

2.The Deputy Branch Head,
M/s.IndusInd Bank Limited,
Sriperumbudur Branch,
No.87, Gandhi Road,
Sriperumbudur-602 105 ..Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorari, calling for the records relating to the order passed by the respondent in Reference No:ZD330424176947Z in GSTIN/ID :33AAECE5441Q1ZD dated 23.04.2024 and quash the same as arbitrary, contrary to law and unsustainable.

For Petitioner : Mr.M.A.Mudimannan


https://www.mhc.tn.gov.in/judis

WEB COPY

For Respondents : Mr.V.Prashanth Kiran
Government Advocate
for first respondent

**ORDER**

The present writ petition is filed challenging the impugned order passed by the respondent dated 23.04.2024 relating to the assessment year 2018-19.

2. The petitioner is company incorporated under the provisions of the Companies Act and is registered under the Goods and Services Tax Act. During the relevant period, the petitioner had filed its return and paid appropriate taxes. However, during the scrutiny of the monthly returns, it was found that there was Mismatch between GSTR-1 and GSTR-9. Subsequently, an intimation was issued in DRC-01A to the petitioner, followed by a show cause notice in DRC-01 on 01.12.2023 for the year 2018-19. Further, an opportunity of personal hearing was also granted. However, the petitioner had neither filed its reply nor availed the opportunity for a personal hearing. Hence, the impugned order came to be passed.

3. It is submitted by the learned counsel for the petitioner that neither the

WEB COPY



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, the petitioner was unaware of the initiated proceedings and was thus unable to participate in the adjudication proceedings. It is further 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.

4. 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 is further submitted by the learned counsel for the petitioner that they have already remitted the entire disputed tax and they may be granted an opportunity before the adjudicating authority to put forth their objections to the proposal. It is further submitted that a lien has been created in respect of entire tax, penalty and interest. It is further submitted that there is bank attachment and the same may be lifted, to which, the learned Government Advocate appearing for the first respondent does not have any serious objection.


https://www.mhc.tn.gov.in/judis

WEB COPY



5. Taking into account the peculiar facts of the case, wherein, the petitioner has already remitted the entire disputed taxes, this Court is of the view that the petitioner may be granted one final opportunity to put forth his objections, which was not objected to by the learned Government Advocate for the first respondent.

6. Since, the above order is made on the basis of the statement made by the learned counsel for the petitioner that the entire disputed tax has been remitted already, the respondent may verify the same. If the statement made by the learned counsel for the petitioner regarding the payment of entire disputed taxes is incorrect, the respondent authority shall intimate the same to the petitioner who shall deposit 25% of disputed taxes within a period of two weeks from the date of such intimation. Subject to verification of payment of the entire disputed taxes or on payment of 25% of disputed taxes, attachments if any, would be lifted.

7. In view thereof, the impugned order, dated 23.04.2024 is set aside. The impugned order shall be treated as a show cause notice and the petitioner shall filed their objections within a period of two (2) weeks from the date of receipt of a copy of this order. If any such objections are filed within the stipulated period, the


https://www.mhc.tn.gov.in/judis

WEB COPY



respondent shall consider the same and pass appropriate orders in accordance with law after affording the petitioner a reasonable opportunity of hearing. If objections are not filed within the stipulated period, i.e., two weeks from the date of receipt of a copy of this order, the impugned order of assessment shall stand restored.

8. Accordingly, the writ petition stands disposed of. There shall be no order as to costs. Consequently, W.M.P.Nos.41365 and 41368 of 2024 are closed.

**13.12.2024**

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

**MOHAMMED SHAFFIQ, J.**

mrn

To


https://www.mhc.tn.gov.in/judis

WEB COPY



1.Assistant Commissioner (ST)(FAC),
Nolambur Assessment Circle,
Room No.353, 3rd Floor, Nandanam,
Chennai-600 035.

2.The Deputy Branch Head,
M/s.IndusInd Bank Limited,
Sriperumbudur Branch,
No.87, Gandhi Road,
Sriperumbudur-602 105

**W.P.No.38230 of 2024**

**13.12.2024**


https://www.mhc.tn.gov.in/judis