IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :16.12.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.38480 of 2024
and
W.M.P.Nos.41676 and 41677 of 2024

Tvl.Mumbai Collection
Represented by its Proprietor
Mr.K.Mathaiyan,
51, B.T.Market Road, Bargur,
Krishnagiri 635 206. ... Petitioner

Vs.

The Deputy Commissioner State Tax Officer -1,
(Also Known as Commercial Tax Officer – 1)
Krishnagiri – II. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records on the files of the respondent in FORM GST DRC-07 with Reference No:ZD331123090392Q dated 16.11.2023 along with detailed proceeding in GST:33COHPM4492M1ZF dated 16.11.2023 for the tax period 2017-18 and quash the same.

For Petitioner : Mr.N.Chandirasekar

For Respondent : Mr.T.N.C.Kaushik,
Additional Government Pleader.

ORDER

The present writ petition is filed challenging the impugned order passed by the respondent dated 16.11.2023 on the premise that the petitioner had not submitted its reply when, in fact, the petitioner had submitted its reply on 26.10.2023 in response to the notice in DRC-01 dated 26.09.2023. It was thus submitted that the impugned order suffers from non-application of mind to the material on record.

2. The petitioner is engaged in the supply of textiles and is registered under the Goods and Services Tax Act, 2017. During the relevant period of 2017-18, the petitioner filed its returns and paid the appropriate taxes. However, on scrutiny of the petitioner's return, it was noticed that the sales declared were less than the purchases, which was proposed to be treated as sales suppression.

2.1. Pursuant thereto, a notice in DRC-01A was issued on 13.09.2023, followed by notice in DRC-01 on 26.09.2023. In response to the Show Cause Notice, the petitioner had filed its reply on 26.10.2023 wherein it was submitted that the sales reported in GSTR-3B are in fact correct and the discrepancies are only in view of the fact that the closing stock has not been considered. However, the impugned order proceeds on the premise that the petitioner had not filed any objection nor attended the personal hearing which, according to the petitioner, suffers from non-application of mind.

3. The learned counsel for the respondent would submit that they would redo the assessment on the basis of the reply dated 26.10.2023 and the materials already on record including the documents filed in support thereof, which was agreed to by the learned counsel for the petitioner.

4. In view thereof, the impugned order dated 26.04.2024 is set aside. The petitioner, in addition to the reply already filed, may submit its objections within a period of two weeks from the date of receipt of a copy of this order. If any representation / reply is filed within the stipulated time period i.e., two weeks from the date of receipt of a copy of this order, the same shall be considered by the respondent and orders shall be passed in accordance with law, after affording the petitioner a reasonable opportunity of hearing.

5. 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

To:

The Deputy Commissioner State Tax Officer -1,
(Also Known as Commercial Tax Officer – 1)
Krishnagiri – II.

MOHAMMED SHAFFIQ, J.

shk

W.P. No.38480 of 2024
and
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16.12.2024
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