IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.38830 of 2024
and W.M.P.Nos.42045 and 42046 of 2024

Tvl Vanamala constructions Pvt. Ltd.,
Represented by its Managing Director,
Mr.S.K.Senthil Kumar,
No.A/109, Nethaji Street,
Alagapuram, Salem 636 016. ..Petitioner

Vs.

State Tax Officer,
Data Analytics Unit - II Intelligence,
Integrated Commercial Tax Building,
Room No.201, II Floor, Pitchards Road,
Hsthampatty, Salem - 636 007. ..Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorarified Mandamus, calling for the records in Order passed by the Respondent herein vide Order No. TNGST33AACCV4193Q1ZR/ 2017-18, dated 12.08.2024 and quash the same, as arbitrary, bad in law and consequently direct the respondent to drop the proceedings in entirety.

For Petitioner : Ms.Jayalakshmi.P

For Respondent : Mr.V.Prashanth Kiran,
Government Advocate

ORDER

The present writ petition is filed challenging the impugned order Order No. TNGST33AACCV4193Q1ZR/ 2017-18, dated 12.08.2024 passed by the respondent on the premise that the same was made in violation of principles of natural justice.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in work contract services and is registered under the GST Act. During the relevant period of 2017-18, the petitioner has filed the returns and paid appropriate taxes. However, on surprise inspection of the petitioner's place of business, the following discrepancies were noticed:

i) Non production of inward supply invoices

ii) Transitional credit of input tax credit

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

in DRC 01A was issued on 13.09.2023, followed by a show cause notice in DRC 01 on 28.09.2023. In response to the same, the petitioner filed its reply on 27.10.2023. Further personal hearing were offered on 02.07.2024. However, the impugned order came to be passed on the premise that the petitioner had not produced original invoices for verification. In view of want of documentary evidence, the petitioner's reply stood rejected. It is submitted by the learned counsel for the petitioner that if the petitioner is provided with an opportunity, he would be able to explain the discrepancies.

4. The learned counsel for the petitioner would place reliance upon the recent judgment of this Court in the case of **Sree Manoj International Vs. Deputy State Tax Officer in W.P.No.10977 of 2024 dated 25.04.2024**, to submit that this court has remanded the matter back in similar circumstances subject to payment of 10% of the disputed taxes.

5. It was further submitted that the petitioner is ready and willing to pay 10% of the disputed tax and that he may be granted one final opportunity before the adjudicating authority to put forth their objections to the proposal, to which the learned Government Advocate appearing for the respondent does not have any

serious objection.

6. By consent of parties, the writ petition stands disposed of on the following terms:

a) The impugned order dated 12.08.2024 is set aside

b) The petitioner shall deposit 10% of the disputed taxes as admitted by the learned counsel for the petitioner and the respondent, within a period of four weeks from the date of receipt of a copy of this order.

c) If any amount has been recovered or paid out of the disputed taxes, including by way of pre-deposit in appeal, the same would be reduced/adjusted, from/towards the 10% of disputed taxes directed to be paid. The assessing authority shall then intimate the balance amount out of 10 % of disputed taxes to be paid, if any, within a period of one week from the date of receipt of a copy of this order. The petitioner shall deposit such remaining sum within a period of three weeks from such intimation.

d) The entire exercise of verification of payment, if any, intimation of the balance sums, if any, to be paid for compliance with the direction of payment of 10% of the disputed taxes, after deducting the sums already paid and payment by the petitioner of the balance amount, if any, on intimation in compliance of the above direction, shall be completed within a period of four weeks from the date of receipt of copy of this order.

e) Failure to comply with the above condition viz., payment of 10% of disputed taxes within the stipulated period i.e., four weeks from the date of receipt of a copy of this order shall result in restoration of the impugned order.

f) If there is any recovery by way of attachment of Bank account or garnishee proceedings, the same shall be lifted /withdrawn on complying with the above condition viz., payment of 10 % of the disputed taxes.

g) 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. It is made clear that if the above conditions viz., 10% of disputed taxes is not complied or objections are not filed within the stipulated period, four weeks respectively from the date of receipt of a copy of this order, the impugned order of assessment shall stand restored.

7. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

19.12.2024

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

To

State Tax Officer,
Data Analytics Unit - II Intelligence,
Integrated Commercial Tax Building,
Room No.201, II Floor, Pitchards Road,
Hsthampatty, Salem - 636 007.

MOHAMMED SHAFFIQ, J.

mrn

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