IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :21.12.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.39294 of 2024
and
W.M.P.Nos.42555, 42554 and 42556 of 2024

Sri Selvakumar Mills Private Limited
Rep. By its Managing Director, K.Kumaresan
5/1D, Pollachi Road, Palladam,
Tiruppur, Tamil Nadu 641 664. ... Petitioner

Vs.

1.The Assistant Commissioner (ST)
Palladam 1 Assessment Circle
Tiruppur.

2.The Branch Manager,
IndusInd Bank
K.M.A Building,
No.1 & 32A, Eswaran Kovil Street North,
Tiruppur 641 604. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, call for the records of the first respondent in Ref.No.ZD330324097733A and quash the order dated 16.03.2024 passed therein.

For Petitioner : M/s.S.Jecintha

For Respondents : Mr.C.Harsha Raj,
Additional Government Pleader for R1.

ORDER

The present writ petition is filed challenging the impugned order passed by the respondent dated 16.03.2024 relating to the assessment year 2019-20.

2. The petitioner is a registered dealer under the Goods and Services Tax Act, 2017. During the relevant period of 2019-20, the petitioner filed its returns and paid the appropriate taxes. However, as per the authorization of the Joint Commissioner, an audit was conducted at the petitioner's place of business. During the course of the audit, it was *inter alia* noticed that there were certain discrepancies between GSTR-3B and GSTR-2A

2.1.Pursuant thereto, a notice in GST DRC-01A was issued on 17.04.2024, followed by a notice in DRC-01 on 09.05.2024. Further, personal hearing was offered on 22.07.2024 and 06.08.2024. In response to the notice dated 09.05.2024, the petitioner had filed its reply on 27.08.2024 However, the reply has been rejected on the premise it is not supported documents. Hence, the impugned order came to be passed, confirming the proposal.

3. 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,*** 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 Additional Government Pleader appearing for the respondents does not have any serious objection.

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

a) The impugned order 16.03.2024 is set aside.

b) The petitioner shall deposit 25% 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 25% of disputed taxes directed to be paid. The assessing authority shall then intimate the balance amount out of 25 % 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 25% 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 with 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 25% 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 25 % 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., 25% 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.

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

21.12.2024

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

To:

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MOHAMMED SHAFFIQ, J.

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