IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :21.12.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.39281 of 2024
and
W.M.P.Nos.42542 and 42545 of 2024

Tvl.Sri Vasupujya Jewels
Rep. by its Proprietor: Ronak Hasmukh Jain,
No.262 & 263, 2nd Floor,
Sydenhams Road,
Choolai, Chennai 600 112. ... Petitioner

Vs.

State Tax Officer,
Choolai Assessment Circle
No.1, Papajm, Annexure Building,
Greams Road, First Floor,
Chennai 600 006. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari call for the records on the file of the respondent passed in GSTIN:33ANCPJ3041K1ZC/2019-20 and consequential order under Section 73 and summary of the order in Form GST DRC-07 having Ref. No.ZD330824284845W dated 30.08.2024 for the FY 2019-20 and quash the same as illegal, contrary to the provisions of the Act and records and against the principles of natural justice.

For Petitioner : M/s.Pooja Chopda

For Respondent : Mr.C.Harsha Raj,
Additional Government Pleder.

ORDER

The present writ petition is filed challenging the impugned order passed by the respondent dated 30.08.2024 relating to the assessment year 2019-20.

2.The petitioner is a registered taxpayer 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, on verification of the petitioner's monthly return, the following discrepancies were noticed viz.,

i. Output Mismatch between GSTR-3B and 1

ii.Input Mismatch between GSTR-3B and GSTR-2A.

2.1 Pursuant thereto, a notice in Form GST DRC-01 was issued on 14.09.2023, followed by reminder on 03.05.2024. In response, the petitioner had filed its reply on 10.05.2024. However, the reply has been rejected on the premise that the petitioner had failed to file any supportive documents to explain the alleged discrepancies. Hence, the impugned order came to be passed, confirming the proposal.

3.The impugned order is challenged on the premise that neither the show cause notices 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.

4. 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 ***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. It was further submitted that the petitioner is ready and willing to pay 10% 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, to which the learned learned Additional Government Pleader appearing for the respondent does not have any serious objection.

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

a) The impugned order dated 30.08.2024 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 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 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.

6. 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

MOHAMMED SHAFFIQ, J.

shk

To:

State Tax Officer,
Choolai Assessment Circle
No.1, Papajm, Annexure Building,
Greams Road, First Floor,
Chennai 600 006.

W.P. No.39281 of 2024
and
W.M.P.Nos.42542 and 42545 of 2024

21.12.2024