IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.39496 of 2024
and
W.M.P.Nos.42757 and 42758 of 2024

Afro Asia Equipments Private Limited,
Represented by its Director,
Sushilkumar Srivastava,
No.1, NA, Pooamalle High Road,
Maduravoyal, Chennai 600 095. .. Petitioner

Vs.

The Assistant Commissioner (ST) (FAC) /
The Commercial Tax Officer,
Nolambur Assessment Circle,
No.333, 3rd Floor, Nandanam,
Chennai 600 035. .. Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records impugned order of assessment passed by the respondent in Reference No.ZD331223240443X in GSTIN/ID:33AAMCA1310N1ZV dated 28.12.2023 for financial year 2017-18, quash the same as illegal, violative of the provisions of the Tamil Nadu Goods and Services Act, 2017, principles of natural justice, Article 14, 19(1)(g) and 265.

For Petitioner : Ms.Lakshmi Sriram

For Respondent : Mr.G.Nanmaran
Special Government Pleader

ORDER

The present writ petition is filed challenging the impugned order dated 28.12.2023 on the short ground that it suffers from non application of mind inasmuch as it proceeds on the erroneous premise that the petitioner has not filed any reply when in fact the petitioner had filed their reply on 19.12.2023.

2. It is submitted by the learned counsel for the petitioner that the petitioner is registered under the GST Act and was engaged in the business of renting out construction equipments and has shutdown its operations in 2019. For the relevant financial year 2017-18 the petitioner had filed its returns and paid appropriate taxes. However, on comparison of the Input Tax Credit availed by the petitioner it was noticed that there was a mismatch between GSTR 3B and GSTR 2B.

3. Pursuant thereto a notice in DRC 01 was issued on 29.09.2023. In response the petitioner had submitted its reply on 19.12.2023 which has been duly acknowledged. However, without considering the reply, the impugned order has confirmed the proposal on the premise that no

objection or reply was received from the tax payer.

4. On this being pointed out, the learned Special Government Pleader for the respondent would submit that they would pass orders afresh taking into account the objections filed by the petitioner and after affording the petitioner a reasonable opportunity of hearing.

5. In view thereof the impugned order is set aside. It is open to the respondent to consider and pass orders afresh in accordance with law after affording the petitioner a reasonable opportunity of hearing.

6. Accordingly, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

21.12.2024

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

To:

The Assistant Commissioner (ST) (FAC) /
The Commercial Tax Officer,
Nolambur Assessment Circle,
No.333, 3rd Floor, Nandanam,
Chennai 600 035

MOHAMMED SHAFFIQ, J.

spp

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