IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.39498 of 2024
and
W.M.P.Nos.42761 and 42762 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 of the impugned order of assessment passed by the respondent in GSTIN/ID:33AAMCA1310N1ZV dated 29.04.2023 for financial year 2018-19, and the impugned order under Section 73 in Reference No.ZD330424250657D dated 30.04.2024 and impugned For GST DRC 07 in Reference No.ZD330424250657D dated 30.04.2024 for Financial Year 2018-19,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 29.04.2024 on the limited ground that the impugned order has been passed without considering the petitioner objection.

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 2018-19 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 1.

3. Pursuant thereto a notice in DRC01 was issued on 13.12.2023 followed by a reminder dated 16.03.2024. In response the petitioner submitted its reply on 20.12.2024 along with GSTR 9 and GSTR 9C. However, the impugned order confirmed the proposal by merely stating

that they had not filed any documentary evidence. It is submitted by the learned counsel for the petitioner a mere perusal of GSTR 9 and GSTR 9C itself would show that the alleged mismatch does not exist.

4. When this was pointed out, the Special Government Pleader for the respondent would submit that they would re-consider and pass orders afresh 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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