BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.09.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.(MD)No.4361 of 2024
and
W.M.P.(MD)Nos.4183 and 4184 of 2024

S.Sesappan ... Petitioner

Vs.

The Deputy State Tax Officer-2,
Sattur-1 Assessment Circle,
Sattur,
Virudhunagar District. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the respondent vide his order in GSTIN: 33AFPPS5000J1ZE/2021-22 dated 19.06.2023 and quash the same as it is illegal and in gross violation of principles of natural justice and further direct the respondent to re-do the assessment afresh after providing an opportunity of personal hearing as per the provision of the GST Act.

For Petitioner : Mr.A.Satheesh Murugan

For Respondent : Mr.J.K.Jayaselan
Government Advocate

O R D E R

The present Writ Petition is filed challenging the order dated 19.06.2023 on the premise that the impugned proceedings is made in violation of principles of natural justice.

2. It is submitted by the learned counsel for the petitioner that the petitioner is a work contractor and has executed works contract for various Government authorities. He is also registered under GST Act and had also filed monthly returns reporting inward and outward supplies in the prescribed GSTR-1 and GSTR-3B. On scrutinizing of the returns, there were certain discrepancies between GSTR-1 and GSTR-7 which were treated as suppression of outward tax supply. The petitioner was stated to have been issued notice in Form ASMT-10 followed by notice in DRC-01A and DRC-01 and personal hearing intimations were also sent via e-mail.

3. It is submitted by the petitioner that they were unable to respond to the notices inasmuch as they are not aware of the notices which were uploaded in the portal. Thus, the petitioner was unable to access the GSTIN portal and was unable to participate in the adjudication proceedings.

4. It was submitted by the learned counsel for the petitioner that with the introduction of GST, there were several technical glitches in the portal and the assessees were also taking time to adapt to the e-mechanism and it was only in view of the same that the petitioner was unable to respond to the above notices and the order of adjudication. It was further submitted that that the petitioner is ready and willing to pay 25% 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.

5. In view thereof, the impugned order dated 19.06.2023 is set aside and the petitioner shall deposit 25% of the disputed tax within a period of two (2) weeks from the date of receipt of a copy of this order. 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. If the above deposit is not paid or the objections not filed within the stipulated period, i.e., two weeks and four weeks from the date of receipt of a copy of this order respectively, the impugned order of assessment shall stand revived.

6. Accordingly, the Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

05.09.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr

To:

The Deputy State Tax Officer-2,
Sattur-1 Assessment Circle,
Sattur,
Virudhunagar District.

MOHAMMED SHAFFIQ, J.

Nsr

W.P.(MD)No.4361 of 2024

05.09.2024