BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.08.2024

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THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

W.P.(MD).No.6720 of 2024
and
W.M.P.(MD).Nos.6236 and 6237 of 2024

Tvl. Integrated Technologies
Represented by it Partner
J.Parthiban, S/o.Mr.R.Jayaraman,
1st Floor, No.66, Weat Bouliward Road,
Trichy-620008 ... Petitioner

Vs.

1.The State Tax Officer/
Commercial Tax Officer,
Office of the Commercial Tax Department
Gandhi Market(C)
Government Multi Storied Buildings,
Kajamalai Colony,
Trichy-620 020.

2.The Assistant Commissioner (ST)(FAC)
Gandhi Market Assessment Circle,
Trichy-20. ...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned order passed by the 1st respondent vide GSTIN: 33AABF14802KIZN/2018-19 dated 14.08.2023 along with the DRC-07 order under Section 73 in Ref No.ZD3308230781684, dated 14.08.2023 and consequential recovery notice issued by 2nd respondent No Nil, dated 01.02.2024 and quash the same, further direct the respondents to drop the recovery proceedings against the petitioner.

For Petitioner : Mr.S.Muthuvenkatraman

For Respondents : Mr.R.Suresh Kumar
Additional Government Pleader

ORDER

The present Writ Petition is filed challenging the impugned order passed by the first respondent in Form GST DRC – 07 dated 14.08.2023 for the assessment year 2018-2019 and the consequential recovery notice issued by the second respondent dated 01.02.2024.

2. 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 and it had been uploaded in the GST portal. It was submitted by the learned counsel for the petitioner that the petitioner was unable to access the GSTIN portal and thus unable to participate in the adjudication proceedings.

3. The limited issue that arises for consideration in the impugned order is the alleged mismatch between GSTR-3B vs GSTR-1 and GSTR-3B vs GSTR-7. It is submitted by the learned counsel for the petitioner that if the petitioner is provided with an opportunity, he would be able to explain the

alleged discrepancies between GSTR-3B vs GSTR-1 and GSTR-3B vs GSTR-7. .

4. The learned counsel for the petitioner would 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.***

5. 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 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 Additional Government Pleader appearing for the respondents does not have any serious objection.

6. In view thereof, the impugned order and the consequential recovery notice are set aside. 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 along with supporting documents/material within a period of four (4) weeks from the date of receipt of a copy of this order. If any such objections are filed, the same shall be considered by the respondents 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 are 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 proceedings shall stand revived.

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

16.08.2024

Index : Yes / No
Internet : Yes/ No
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MOHAMMED SHAFFIQ, J.

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