BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.08.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P(MD)No.19396 of 2024
and
W.M.P(MD)Nos.16439 & 16440 of 2024

G.Parthiban ... Petitioner

Vs.

The Deputy State Tax Officer-1,
Tuticorin-II Assessment Circle,
Tuticorin. ... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for records pertaining to the impugned order passed by the respondent vide his order in GSTIN: 33AFTPP5441G1Z7, dated 27.07.2023 Financial year: 2018-19 and quash the same as it is illegal and passed in gross violation of principles of natural justice and further direct the respondent to re-do the assessment afresh after providing me an opportunity of personal hearing as per the provisions of the GST Act and to pass such further or other orders as this Court.

For Petitioner : Mr.A.Satheesh Murugan

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

ORDER

The present Writ Petition is filed challenging the impugned order issued by the respondent in GSTIN: 33AFTPP5441G1Z7, dated 27.07.2023 for the assessment year 2018-2019.

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 GSTIN common portal. It was submitted by the learned counsel for the petitioner that the petitioner was unable to access the GSTIN portal and was thus unable to participate in the adjudication proceedings.

3. The learned Government Advocate appearing for the respondent would submit that though notice was issued under DRC-01A, the petitioner had neither filed a reply nor appeared for the personal hearing.

4. The limited issue that arises for consideration in the impugned order is the alleged TDS mismatch between GSTR 7 vs GSTR-3B and GSTR 1 and alleged outward supplies mismatch between GSTR-9 vs GSTR3B. 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 7 vs GSTR-3B and GSTR 1 and between GSTR-9 vs GSTR3B.

5. 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***.

6. 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 Government Advocate appearing for the respondent does not have any serious objection.

7. In view thereof, the impugned order is 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 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 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 order of assessment shall stand revived.

8. Accordingly, the Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous petitions stand closed.

13.08.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

To

The Deputy State Tax Officer-1,
Tuticorin-II Assessment Circle,
Tuticorin.

MOHAMMED SHAFFIQ, J.

BTR

W.P(MD)No.19396 of 2024

13.08.2024