BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.08.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.(MD)No.20057 of 2024
and
W.M.P.(MD)Nos.17047 and 17049 of 2024

M/s.V.Sanguine Exim,
Represented by its Proprietor,
Thanga Durai Periya Naveen Sivaram ... Petitioner

Vs.

The State Tax Officer,
Tuticorin-II Assessment Circle,
Commercial Taxes Buildings,
Thoothukudi 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 proceedings in Order No.GSTIN:33BBIPP8165M1Z1/2018-19, dated 19.07.2023 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 the petitioner an opportunity of personal hearing as per the provisions of the GST Act, 2017.

For Petitioner : Mr.A.Satheesh Murugan

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

ORDER

This Writ Petition is filed challenging the proceedings dated 19.07.2023, for the period 2018-2019 on the premise that the orders are made in violation of principles of natural justice.

2. It is submitted that the petitioner imported chemicals from other countries and had paid the appropriate IGST, under Reverse Charge Mechanism, while claiming the same as Input Tax Credit. The above claim of Input Tax Credit has been rejected on the premise that GSTR-2A does not reflect the same. The petitioner in response to the show cause notice issued in DRC-01 had submitted a request for adjournment on 18.06.2023, 03.07.2023 and 18.07.2023 citing medical reasons for being unable to participate in the proceedings. However, the impugned order has been passed on 19.07.2023 without considering his request for adjournment. It was further submitted that the petitioner was unaware of the impugned order having been passed and the same was uploaded in the GSTIN portal.

3. The limited issue that arises for consideration in the impugned order is the alleged mismatch between GSTR-2A and GSTR-3B. 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-2A and GSTR-3B.

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

6. In view thereof, the impugned order 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 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.

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

22.08.2024

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

To:

The State Tax Officer,
Tuticorin-II Assessment Circle,
Commercial Taxes Buildings,
Thoothukudi District.

MOHAMMED SHAFFIQ, J.

Nsr

W.P.(MD)No.20057 of 2024

22.08.2024