BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.08.2024

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THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

W.P.(MD).No.19706 of 2024
and
W.M.P.(MD).Nos.16694 and 16695 of 2024

Tvl.PSK Infra Projects,
Rep. by its Proprietor
S.Muthusamy. ... Petitioner

Vs.

The Assistant Commissioner (ST),
Karur-1 Assessment Circle,
Karur. ...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for records on the file of the respondent in impugned order in GSTIN:33BNJPM3404P1ZS/2021-22 dated 24.07.2023 along with consequential order in Form GST DRC-07 bearing a Ref No.ZD330723100845L dated 24.07.2023 for the tax period 2021-22 and quash the same.

For Petitioner	:	Mr.S.Kannan
For Respondent	:	Mr.R.Sureshkumar Additional Government Pleader

ORDER

The present Writ Petition is filed challenging the impugned order dated 24.07.2023 relating to assessment year 2021-2022.

2. Originally, a notice was issued to the petitioner on the premise that the perusal of the monthly GSTR-3B returns for the month of February 2022 indicated that the tax payer had claimed Input Tax Credit erroneously on purchase of a car. It is submitted by the learned counsel for the petitioner that the above Input Tax Credit, which is said to have been erroneously claimed, has been reversed and that 50% of the penalty has also been paid. It was further submitted that the petitioner was aggrieved by the impugned order as they were unable to put forth their objections in view of the fact that they were unaware of the notices being uploaded in the GSTIN portal.

3. 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 thus submitted that the petitioner may be granted an opportunity before the adjudicating authority to put forth their objections to the proposal.

4. Taking into account the peculiar facts of the case, wherein, the petitioner had reversed the entire Input Tax Credit and also paid 50% of the penalty, this Court is of the view that the petitioner may be granted one final opportunity to put forth his objections, which was not objected to by the learned Additional Government Pleader for the respondent.

5. In view thereof, the impugned order dated 24.07.2023 is set aside. The impugned order shall be treated as a show cause notice and the petitioner shall file their objections with regard to the levy of penalty and interest within a period of two (2) weeks from the date of receipt of a copy of this order. If any such objections are filed within the stipulated period, the respondent shall consider the same and pass appropriate orders in accordance with law after affording the petitioner a reasonable opportunity of hearing. If the objections are not filed within the stipulated period, i.e., two weeks from the date of receipt of a copy of this order, 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.

19.08.2024

Index : Yes / No
Internet : Yes/ No
Lm

To
The Assistant Commissioner (ST),
Karur-1 Assessment Circle,
Karur.

MOHAMMED SHAFFIQ, J.

Lm

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