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.19726 of 2024
and
W.M.P.(MD).Nos.16709, 16711 and 16712 of 2024

P.Kalidoss ... Petitioner

Vs.

The State Tax Officer,
Ettayapuram,
Thoothukudi District. ...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 the records relating to impugned order passed by the respondent in GSTIN. 33APSPK2461A1Z6 for the tax period 2017-18 dated 26.12.2023 and quash the same and consequently direct the respondent to repay the tax deposit amount by the petitioner dated 04.07.2024.

For Petitioner : Mr.S.Sadeskumar

For Respondent : Mr.R.Sureshkumar
Additional Government Pleader

ORDER

The Writ Petition is filed challenging the impugned order passed by the respondent dated 26.12.2023 relating to the assessment year 2017-2018.

2. It is submitted by the learned counsel for the petitioner that the petitioner is running a match factory business in the name and style of "M/s.Vignesh Match Works". During filing of returns, the petitioner filed GSTR-3B inadvertently by including the Input Tax Credit under Reverse Charge Mechanism (RCM). It is further submitted that the entire taxes have been remitted and what remains due is only penalty.

3. The learned counsel for the petitioner placed reliance on the order of this Court in W.P.(MD).No.16098 of 2024 dated 18.07.2024, wherein, this Court, while considering an order of adjudication challenged beyond the statutory period of limitation, regarding a wrong entry made in Form GSTR-3B, inasmuch as RCM amount was shown as Input Tax Credit, was pleased to permit the petitioner to file a reply to the impugned order, subject to the condition that the petitioner deposits 25% of the disputed tax amount. In the present case, the entire taxes is admittedly paid.

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 the petitioner is 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. It was thus submitted that the petitioner may be granted an opportunity before the adjudicating authority to put forth their objections to the proposal, to which the learned Additional Government Pleader for the respondent does not have any serious objection.

5. In view thereof, the impugned order is set aside. The impugned order of assessment shall be treated as show cause notice and the petitioner shall submit its objections within a period of two (2) 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 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 State Tax Officer,
Ettayapuram,
Thoothukudi District.

MOHAMMED SHAFFIQ, J.

Lm

W.P.(MD).No.19726 of 2024

19.08.2024