BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.09.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P(MD)No.20975 of 2024
and
W.M.P(MD)No.17765 of 2024

M/s.SPC Infra Projects,
Represented by its Partner,
Krushna Rao Velamala. ... Petitioner

Vs.

Deputy State Tax Officer-1,
Commercial Taxes Department,
Rajapalayam,
Virudhunagar 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 pertaining to the proceedings in Case ID GSTRN: 33ABYFS2605J1ZT/2019-20, dated 20.11.2023 and quash the same as illegal and consequently direct the respondent to refund the tax and interest already paid by the petitioner and to pass such further or other orders as this Court.

For Petitioner : Mr.R.Krishnamoorthy
For Respondent : Mr.R.Suresh Kumar
Additional Government Pleader

ORDER

The present writ petition has been filed challenging the impugned proceedings, dated 20.11.2023, whereby, on scrutiny, certain discrepancies were found between GSTR-3B and GSTR-1. The above discrepancies were treated as suppression of outward supplies and taxes were levied. It was also found that there was mismatch between the claim of Input Tax Credit claim under GSTR-3B and GSTR-2A.

2. It is submitted by the learned Counsel for the petitioner that the petitioner is doing business under the name and style of M/s.SPC Infra Projects. The petitioner filed its return for the assessment year 2019-2020 and remitted appropriate taxes. While so, the respondent has issued notice in Form GST DRC 01A on 21.03.2023, instructing the petitioner to furnish return for the outward supplies and also to discharge tax liability. It is submitted that the petitioner was unable to file its reply to the above notice due to the ill-health of the petitioner. Importantly, the petitioner has already paid the entire tax due in terms of the order of assessment. However, the respondent without verifying documents, passed the impugned order, dated 20.11.2023 confirming the proposal and levied tax, interest and penalty.

3. It was further 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 the entire tax along with interest, 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 20.11.2023 is set aside. The impugned order shall be treated as a show cause notice and the petitioner shall filed their objections 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 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.

03.09.2024

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

To

Deputy State Tax Officer-1,
Commercial Taxes Department,
Rajapalayam,
Virudhunagar District.

MOHAMMED SHAFFIQ, J.

BTR

W.P(MD)No.20975 of 2024

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