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.20885 of 2024
and
W.M.P.(MD).No.17693 of 2024

Global Hardwares,
Represented by Partner H.Seyedabbas. ... Petitioner

Vs.

The State Tax Officer,
Ramanathapuram Assessment Circle,
Ramanathapuram. ...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 impugned assessment order on the file of respondent vide GSTIN: 33AAFG450H1Z0/2021-22 dated 01.12.2023 and quash the same as illegal and devoid of merits and direct the respondent to redo the assessment proceedings for the year 2021-22.

For Petitioner	: Mr.Raja.Karthikeyan
For Respondent	: Mr.J.K.Jayaselan Government Advocate

ORDER

The present Writ Petition is filed challenging the impugned order dated 01.12.2023 relating to the assessment year 2021-2022.

2. The learned counsel for the petitioner would submit that the petitioner is a trader/retailer of adlocks, locks, ply woods and doors and registered under the GST Act. The impugned order has been passed rejecting the petitioner's claim of Input Tax Credit *inter alia* by stating that there is a discrepancy between GSTR-2A and GSTR-3B and that some transactions have been found to be fictitious on the premise that the petitioner's supplier was a non-existent dealer.

3. 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 portal. It was further submitted that the petitioner was unable to access the GSTIN portal and thus unable to participate in the adjudication proceedings.

4. 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 and demonstrate that the finding that the petitioner's supplier was non-existent, is erroneous and contrary to the material on record.

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 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 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 within a period of four (4) 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 above deposit is not paid or the objections 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 petition stands closed.

03.09.2024

Index : Yes / No
Internet : Yes/ No
Lm

MOHAMMED SHAFFIQ, J.

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