BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.09.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P(MD)No.21081 of 2024
and
W.M.P(MD)Nos.17868 & 17869 of 2024

Merlin Ply-Lam,
Represented by Partner,
P.A.Meera Maideen. ... Petitioner

Vs.

1.The State Tax Officer /
The Commercial Tax Officer,
Adjudication-1, Intelligence,
Office of the Joint Commissioner
(State Tax) (Intelligence),
Commercial Taxes Building,
Dr.Thangaraj Salai, K.K.Nagar,
Madurai-625 020.

2.The State Tax Officer-3/
The Commercial Tax Officer
(Intelligence), Date Analytics,
Office of the Joint Commissioner
(State Tax) (Intelligence),
Commercial Taxes Building,
Dr.Thangaraj Salai, K.K.Nagar,
Madurai-625 020.

3.The Assistant Commissioner (ST),
Madurai Rural (East),
Commercial Taxes Building,
Dr.Thangaraj Salai, K.K.Nagar,
Madurai-625 020. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for records from the file of the second respondent in impugned order passed in GSTIN: 33ABJFM0478L1ZZ/2023-2024, dated 04.03.2024 and consequent summary of the order in Reference No:ZD330324019787B, dated 04.03.2024 passed for the financial year 2023-2024 and quash the same as void ab initio, illegal, arbitrary without jurisdiction and violative of principles of natural justice and pass such further or other orders as this Court.

For Petitioner	:	Mr.J.Narayanasamy for Mr.K.S.Prakash
For Respondents	:	Mr.J.K.Jayaselan Government Advocate

ORDER

The present Writ Petition has been filed challenging the impugned order, dated 04.03.2024 which was made pursuant to an inspection under Section 67 of the Tamil Nadu Goods and Services Tax Act. During the course of inspection, certain stock difference was stated to have been found and on the basis of the alleged stock difference / variation, best judgment assessment was made.

2. It is submitted by the learned Counsel for the petitioner that they were not aware of the notices and therefore, they were unable to respond to the same. If the petitioner is granted one opportunity, they would be able to demonstrate that the stock variation is only in view of the valuation adopted by the respondent authority, whereby, the old stocks were valued at the current market price.

3. 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.***

4. It was also 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 Additional Government Pleader appearing for the respondent does not have any serious objection.

5. 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/materials 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.

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

04.09.2024

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

To

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MOHAMMED SHAFFIQ, J.

BTR

W.P(MD)No.21081 of 2024

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