BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.09.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P(MD)No.21108 of 2024
and
W.M.P(MD)Nos.17879 & 17881 of 2024

Pankaj Granites,
Represented by Proprietor,
Baldev Ram Jat. ... Petitioner

Vs.

The Assistant Commissioner (ST),
Madurai Rural East Assessment Circle,
Commercial Taxes Buildings,
Dr.Thangaraj Salai Road,
Madurai-625 020. ... Respondent

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 respondent in impugned order in Reference No.ZD330424237911K in GSTIN:33AIHPJ0846J1ZC, dated 29.04.2024 passed for the financial year 2018-19 and quash the same as without jurisdiction, erroneous on facts 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 Respondent	:	Mr.R.Suresh Kumar Additional Government Pleader

ORDER

The present writ petition is filed challenging the impugned order issued by the respondent in Reference No.ZD330424237911K in GSTIN: 33AIHPJ0846J1ZC, dated 29.04.2024 for the assessment year 2018-2019.

2. The petitioner was engaged in manufacturing and processing of granite slabs and during the period 2018-2019, was a registered supplier under the GST Act.

3. It is submitted by the learned Counsel for the petitioner that the petitioner had submitted his returns and also paid the appropriate taxes. While so, DRC-01A was issued on 15.11.2022 under Section 73(5) of the TNGST Act, 2017, which contains the intimation of the tax ascertained as payable. In response to the above notice, the petitioner submitted his reply, dated 30.11.2022, *inter alia,* submitting that the allegation that the petitioner's supplier were bill traders, has been made without any material evidence to support the same. The petitioner sought for certain details as to the nature of the investigation and the basis for the authority to arrive at a conclusion that the petitioner's suppliers were bill traders. Thereafter, there was no response from the respondent authority and the petitioner surrendered his registration certificate on 01.09.2023. It is submitted that after the petitioner had surrendered his registration certificate, notices were issued in DRC-01 on 27.12.2023 and impugned order of assessment has been followed by a remainder on 21.03.2024.

4. It is submitted that the impugned orders of assessment have been passed confirming the proposal. It is submitted by the learned Counsel for the petitioner that the petitioner was unable to avail of the opportunity, inasmuch as having cancelled the registration certificate and having not received anything adverse pursuant to his reply, dated 30.11.2022, the petitioner was of the view that the proposals were dropped and had not checked the web portal.

5. It is submitted by the learned Counsel for the petitioner that the petitioner became aware of the orders of assessment only when it was served manually at Rajasthan, where the petitioner had shifted after closing down the business in Tamil Nadu. It is submitted, when the respondent authority was aware of the fact while serving the order of assessment that the petitioner has shifted to Rajasthan, the notice could have also been served on the petitioner at Rajasthan, which would have enabled them to respond / reply.

6. The learned Additional Government Pleader for the respondent would submit that ITC has been claimed without demonstrating that the transactions were real genuine and not fictitious. However, the learned Additional Government Pleader for the respondent would submit that on instruction taking into account the peculiar facts of the case, one final opportunity would be granted to the petitioner to put-forth their objections along with the documents.

7. In view thereof, the impugned order is set aside. The petitioner is directed to appear before the respondent authority on **19.09.2024** at 11.00 am., along with reply and supporting material evidence. Failing which, the impugned order of assessment will stand revived.

8. The writ petition stands disposed of, accordingly. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions stand closed.

04.09.2024

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

To

The Assistant Commissioner (ST),
Madurai Rural East Assessment Circle,
Commercial Taxes Buildings,
Dr.Thangaraj Salai Road,
Madurai-625 020.

MOHAMMED SHAFFIQ, J.

BTR

W.P(MD)No.21108 of 2024

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