BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.09.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P(MD)No.22076 of 2024
and
W.M.P(MD)Nos.18697, 18699 & 18701 of 2024

Sri Priya Agencies,
Represented by its Proprietor,
S.Shanmuga Sundaram. ... Petitioner

Vs.

1.The State Tax Officer (ST),
Office of Commercial Tax Officer,
Thanjavur-II Assessment Circle,
Thanjavur.

2.The Deputy Commissioner (ST),
20/3, Sachithanantha Monnpanar Road,
Thanjavur.

3.The Branch Manager,
Punjab National Bank,
Thanjavur. ... Respondents

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 on the files of the impugned proceedings of the first respondent vide impugned order, dated in 18.04.2024 vide GSTIN:

33AVBPS5233M1ZE/2018-2019 along with Form GST-DRC-07 bearing Ref No.ZD3304241459757, dated 18.04.2024 for the tax period 2018-2019 quash the same and further direct the second respondent to lift the bank attachment by withdrawing the letter issued in GSTIN:33AVBPS5233M1ZE/2024, dated 13.08.2024 to the third respondent Bank and pass such further or other orders as this Court.

For Petitioner	:	M/s.R.Harishni
For R-1 & R-2	:	Mr.R.Suresh Kumar Additional Government Pleader
For R-3	:	Mr.V.Balasubramanian

ORDER

The present writ petition has been filed challenging the impugned order issued by the first respondent in GSTIN:33AVBPS5233M1ZE/2018-2019 along with Form GST-DRC-07 bearing Ref No.ZD3304241459757, dated 18.04.2024 for the assessment year 2018-2019 and further direct the second respondent to lift the bank attachment.

2. 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 GST portal. It was submitted by the

learned counsel for the petitioner that the petitioner was unable to access the GSTIN portal and was thus unable to participate in the adjudication proceedings.

3. The limited issue that arises for consideration in the impugned order is the alleged mismatch between GSTR-3B and GSTR-1 and also mis-match between GSTR-2A / 2B 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-3B and GSTR-1 and GSTR-2A / 2B and GSTR-3B.

4. 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.***

5. 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 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.

6. In view thereof, the impugned order is set aside. 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/material 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. On payment of such deposit, the bank attachment shall be lifted forthwith.

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

18.09.2024

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

To

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3.The Branch Manager,
Punjab National Bank,
Thanjavur.

MOHAMMED SHAFFIQ, J.

BTR

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