BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.09.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.(MD)No.22852 of 2024
and
W.M.P.(MD)Nos.19381 and 19382 of 2024

M/s.Sri Ayyanar and Co,
Represented by its Partner,
Karuppasamy ... Petitioner

Vs.

The Commercial Tax Officer,
(Re-designated as State Tax Officer),
Mudukulathur Assessment Circle,
Paramakudi Road,
Ramanathapuram District – 623 704. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the respondent vide his proceedings in Reference No.: ZD330424120559I, GSTIN/ID: 33ACTFS1426K1ZT, Tax Period 2018-19, dated 16.04.2024 and quash the same as it is illegal and passed in gross violation of principles of natural justice and further direct the respondent to re-do the assessment afresh after providing the petitioner an opportunity of personal hearing as per the provisions of the GST Act, 2017.

For Petitioner : Mr.A.Satheesh Murugan

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

ORDER

The present Writ Petition is filed challenging the impugned order dated 16.04.2024 on the premise that the same is made in violation of principles of natural justice.

2. It is submitted by the learned counsel for the petitioner that the petitioner is a dealer engaged in trading of consumer goods, registered under GST Act. The petitioner has paid the appropriate taxes and filed its monthly returns regularly. However, the impugned order has been passed on the premise that there is a mismatch between GSTR-3B and GSTR-2A/2B. It is further submitted that the petitioner was not issued with DRC-01A and instead the proceeding commenced only with issuance of DRC-01. Thus, non compliance of the above procedure vitiates the entire proceedings. It is further submitted that neither the show cause notices nor the impugned order of assessment has been served on the petitioner by tender or RPAD, instead had been uploaded in the GSTIN portal. The petitioner was unable to access the GSTIN portal and 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-2A/2B. 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-2A/2B.

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 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 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 are not filed within the stipulated period, i.e., two weeks and four weeks respectively, from the date of receipt of a copy of this order, the impugned order of assessment shall stand revived.

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

25.09.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr

To:

The Commercial Tax Officer,
(Re-designated as State Tax Officer),
Mudukulathur Assessment Circle,
Paramakudi Road,
Ramanathapuram District – 623 704.

MOHAMMED SHAFFIQ, J.

Nsr

W.P.(MD)No.22852 of 2024

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