BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.09.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.(MD)No.22783 of 2024
and
W.M.P.(MD)Nos.19298 and 19299 of 2024

P.Kannan ... Petitioner

Vs.

1.The Deputy State Tax Officer,
Nagercoil – 2,
Kanyakumari District.

2.The Deputy Commissioner of State Tax,
131, Mead Street,
Nagercoil – 2,
Kanyakumari District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records relating to the impugned order passed by the second respondent in his proceedings in GSTIN in GSTIN: 33AQBPK5340E1ZD/2021-22 dated 14.06.2024 and quash the same.

For Petitioner : Mr.J.Sivaram

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

ORDER

The present Writ Petition is filed challenging the impugned order dated 14.06.2024 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 registered under GST Act and he has engaged in execution of works contract. For the period 2021-2022, the petitioner had filed returns in compliance with the provisions of the GST Act. During the course of inspection conducted by the officers of the State Tax, certain discrepancies were noticed viz.,

a) Verification of outward supplies for the year 2021-2022 in Form GSTR-1 and monthly returns in Form GSTR-3B would reveal that the tax has been discharged at 12% instead of 18%. The above differential tax is stated to have been remitted and also been paid at the time of inspection.

b) Verification of Input Tax Credit for the year 2021-2022 in Form GSTR-3B reveals that the petitioner has availed Input Tax Credit which constitutes blocked credit in terms of Section 17(5) of the GST Act, 2017. The petitioner revoke the Input Tax Credit and paid the taxes by filing Form DRC 03 on 18.08.2022.

c) The petitioner had also executed works contract for un-registered person and had paid outward liability at 12% instead of 18%.

3. The show cause notice was issued in Form DRC-01 under Section 73(1) of the Act on 09.01.2023 through GST portal and opportunity for personal hearing was also granted under Section 75(4) of the Act on the following dates:

Date of Hearing	**Response of the Tax payer**
06.03.2023	Not Responded
24.03.2023	Not Responded
17.05.2023	Not Responded

4. It is submitted by the learned Additional Government Pleader for the respondents that inspite of grant of personal hearing, the petitioner has not appeared before the respondent authority.

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.

6. Placing reliance upon the recent judgment of this Court in the case of ***Sree Manoj International v. State Tax Officer*** reported in ***2024 SCC OnLine Mad 1194, it*** was further submitted by the learned counsel for the petitioner that that the petitioner is ready and willing to pay 10% 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.

7. In view thereof, the impugned order is set aside and the petitioner shall deposit 10% 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.

8. 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:

1.The Deputy State Tax Officer,
Nagercoil – 2,
Kanyakumari District.

2.The Deputy Commissioner of State Tax,
131, Mead Street,
Nagercoil – 2,
Kanyakumari District.

MOHAMMED SHAFFIQ, J.

Nsr

W.P.(MD)No.22783 of 2024

25.09.2024