



W.P.(MD).No.22898 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.09.2024

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THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

W.P.(MD).No.22898 of 2024

and

W.M.P.(MD).No.19430 of 2024

Tvl.AMV Agencies,
Rep. by its Proprietor
Gajendra Ganesh.

... Petitioner

Vs.

The Deputy State Tax Officer - 2,
Kamarajar Salai Assessment Circle,
Madurai.

...Respondent

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 impugned assessment order on the file of respondent vide GSTIN : 33AVNPG5517E1ZS/2017-18, dated 26.12.2023, and quash the same as illegal and devoid of merits and direct the respondent to re-do the assessment proceedings for the year 2017-18.

For Petitioner : Mr.Raja.Karthikeyan

For Respondent : Mr.J.K.Jayaselan,
Government Advocate.



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ORDER

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The Writ Petition is filed challenging the impugned order passed by the respondent, dated 26.12.2023, relating to the Assessment Year 2017-2018.

2. The impugned order is challenged on the premise that neither the show cause notices nor the impugned order of assessment has been served by tendering to the petitioner or by registered post, instead it was uploaded in the common portal. It was further submitted that the petitioner was unable to access the common 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-2A 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-2A 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*.



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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 assesseees 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 Government Advocate 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



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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.

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

26.09.2024

Index : Yes / No

Internet : Yes/ No

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To

The Deputy State Tax Officer - 2,
Kamarajar Salai Assessment Circle,
Madurai.



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MOHAMMED SHAFFIQ, J.

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