BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.10.2024

CORAM

THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

W.P.(MD).No.24229 of 2024
and
W.M.P.(MD).Nos.20498 and 20501 of 2024

Tvl.Ramsingh Agency,
Represented by Proprietor,
Shanmugasundaram Bhagyalakshmi. ... Petitioner

Vs.

The Assistant Commissioner
of CGST and Central Excise,
Office of the Assistant Commissioner
of GST and Central Excise,
No.7, Tractor Road, NGO 'A' Colony,
Tirunelveli - 627 007. ...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 F.No: GEXCOM/ADJN/GST/138/2023-CGST-DIV-TNVL COMMRTE-MADURAI dated 31.10.2023 and F.No.GEXCOM/ADJN/GST/138/2023-CGST-DIV-TNVL COMMRTE-MADURAI dated 13.11.2023 and Reference No. ZD331123114982Q dated 20.11.2023 and quash the same as illegal and devoid of merits and direct the respondent to redo the assessment proceedings for the year 2017-18.

For Petitioner : Mr.Raja.Karthikeyan

For Respondent : Mr.R.Gowrishankar
Senior Standing Counsel

ORDER

The present Writ Petition is filed challenging the impugned order passed by the respondent dated 31.10.2023 and the corrigendum dated 13.11.2023.

2. The impugned order is challenged on the premise that the same has not 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 vs GSTR-3B and GSTR-1 vs 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 above discrepancies.

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 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 counsel 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 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.

16.10.2024

Index : Yes / No
Internet : Yes/ No
Lm

To
The Assistant Commissioner
of CGST and Central Excise,
Office of the Assistant Commissioner
of GST and Central Excise,
No.7, Tractor Road, NGO 'A' Colony,
Tirunelveli - 627 007.

MOHAMMED SHAFFIQ, J.

Lm

W.P.(MD).No.24229 of 2024

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