BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.10.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.(MD)No.24108 of 2024
and
W.M.P.(MD)Nos.20388 and 20389 of 2024

M/s.Muthusamy Mukesh,
Represented by its Proprietor,
Mookan A.Mukesh ... Petitioner

Vs.

The State Tax Officer,
Office of the Assistant Commissioner (ST),
Woraiyur, Assessment Circle,
Trichy. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarifed Mandamus, to call for the records relating to the impugned order dated 31.10.2023 in Form GST DRC-07 vide Reference No. ZD331023216509R bearing GSTIN: 33ATNPM6027B1ZX pertaining to FY. 2021-22 issued by the respondent as arbitrary and illegal and quash the same and further direct the respondent to redo the adjudication in accordance with law after granting opportunity of personal hearing to the petitioner.

For Petitioner : Mr.R.Ilayaraja

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

ORDER

The Writ Petition is filed challenging the impugned order passed by the respondent dated 31.10.2023 relating to the assessment year 2021-2022.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in operation and maintenance contract primarily to Government body and has registered under GST. The petitioner filed its returns and paid appropriate taxes regularly. It is submitted that the petitioner's place of business was inspected and during the course of inspection, it was alleged that the suppression of taxable value and wrong claim of Input Tax Credit was noticed. Pursuant to the same, a notice was issued and order of assessment has been passed on the basis of the defects noticed during the course of inspection.

3. It was also submitted 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 GSTIN portal. The petitioner was unable to access the GSTIN portal and unable to participate in the adjudication proceedings.

4. 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.

5. 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 from the date of receipt of a copy of this order respectively, the impugned order of assessment shall stand revived.

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

16.10.2024

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

To:
The State Tax Officer,
Office of the Assistant Commissioner (ST),
Woraiyur, Assessment Circle,
Trichy.

MOHAMMED SHAFFIQ, J.

Nsr

W.P.(MD)No.24108 of 2024

16.10.2024