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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.10.2024

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THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

W.P.(MD).No.24211 of 2024
and
W.M.P.(MD).Nos.20481 and 20482 of 2024

Anandha Medicals,
Represented by its Proprietrix,
P.Krishnaveni. ... Petitioner

Vs.

The Deputy State Tax Officer – 1,
Commercial Taxes Department,
Rajapalayam – II,
Virudhunagar District. ...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records pertaining to the impugned order passed by the respondent in GSTIN : 33BDCPK0659P1ZB/2017-2018 dated 04.05.2023 and quash the same.

For Petitioner : Mr.R.Krishnamoorthy
For Respondent : Mr.R.Sureshkumar
Additional Government Pleader

ORDER

The present Writ Petition is filed challenging the impugned order dated 04.05.2023 relating to the assessment year 2017-2018.

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2. It is submitted by the learned counsel for the petitioner that the petitioner is a registered dealer under the GST Act and carrying on business in the name and style of "Ananda Medicals." The petitioner filed its return for the assessment year 2017-2018. While so, the respondent issued a notice in Form GST DRC-01A dated 09.01.2023, pointing out the mismatch between GSTR-2A and GSTR-3B. However, due to medical reasons, the petitioner was unable to file reply to the said notice 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 due to medical reasons, the petitioner was unable to respond to the above notice 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. It is further submitted that there is bank attachment and the same may be lifted on payment of 25% of the disputed tax, 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 bank attachment shall be lifted. 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

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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 Deputy State Tax Officer – 1,
Commercial Taxes Department,
Rajapalayam – II,
Virudhunagar District.

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MOHAMMED SHAFFIQ, J.

Lm

W.P.(MD).No.24211 of 2024

16.10.2024