BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.10.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.(MD)No.24495 of 2024
and
W.M.P.(MD)No.20839 of 2024

M/s.Saravanasakthi Engeniuss,
Represented by its Authorised Signatory,
V.K.Suresh ... Petitioner

Vs.

Deputy State Tax Officer-II,
Ramanathapuram Assessment Circle,
Ramanathapuram. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records in the impugned order No.ZD330324124368L dated 20.03.2024 issued by the respondent and quash the same is wholly without jurisdiction and clear violation of statutory provisions.

For Petitioner : Mr.S.Karunakar

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

O R D E R

The Writ Petition is filed challenging the impugned order passed by the respondent dated 20.03.2024 relating to the assessment year 2020-2021.

2. The impugned order is challenged on the premise 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. It was further submitted that the petitioner's registration certificate stood cancelled vide proceedings dated 16.12.2020 and the petitioner had no occasion thereafter to check the web portal. Thus, the petitioner was unable to access the GSTIN portal and 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-3B & GSTR-1 and GSTR-7. 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.

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 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. It was further submitted that the petitioner had already paid tax of Rs.3,00,000/- and his only request is that the same may be adjusted towards 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. It is made clear that the tax already paid by the petitioner shall be adjusted towards the deposit of 25% of the disputed tax. 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.

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

17.10.2024

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

To:

Deputy State Tax Officer-II,
Ramanathapuram Assessment Circle,
Ramanathapuram.

MOHAMMED SHAFFIQ, J.

Nsr

W.P.(MD)No.24495 of 2024

17.10.2024