BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.10.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P(MD)No.24357 of 2024
and
W.M.P(MD)Nos.20714 & 20715 of 2024

Tvl.S.Kumaresan Contractor ... Petitioner

Vs.

The Assistant Commissioner (ST),
Tuticorin - III Assessment Circle,
Tuticorin. ... 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: 33AIGPK8199L1ZM/2020-21, dated 10.06.2023 and quash the same as illegal and devoid of merits and direct the respondent to redo the assessment proceedings for the year 2020-21 and pass such further or other orders as this Court.

For Petitioner : Mr.Raja.Karthikeyan

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

ORDER

The present writ petition has been filed challenging the impugned order issued by the respondent in GSTIN:33AIGPK8199L1ZM/2020-21, dated 10.06.2023

2. The petitioner is engaged in the execution of Works Contract and is registered under the Tamil Nadu Goods and Services Tax Act, 2017. The petitioner had filed his return during the period 2020-2021 and it is stated that they have also paid appropriate taxes. While so, a comparison of GSTR-3B and GSTR-7 reveals that there were certain discrepancies. Pursuant thereto, a notice was issued in DRC-01-A followed by DRC-01 and a personal hearing was also granted on various dates, viz., 23.03.2023, 26.04.2023 and 22.05.2023. It was submitted by the learned counsel for the petitioner that the petitioner was unable to access the GSTIN portal and was 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-3B 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 between GSTR-3B and GSTR-7.

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 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.

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 along with supporting documents/material within a period of four (4) weeks from the date of receipt of a copy of this order. 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.

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
BTR

To

The Assistant Commissioner (ST),
Tuticorin - III Assessment Circle,
Tuticorin.

MOHAMMED SHAFFIQ, J.

BTR

W.P(MD)No.24357 of 2024

17.10.2024