BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.10.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.(MD)No.24352 of 2024
and
W.M.P.(MD)No.20678 of 2024

M/s.T.V.L.Thangam Builders,
Represented by its Proprietor,
Dharmaraj ... Petitioner

Vs.

1.The Deputy Commissioner (ST) (GST) (Appeal),
Erode & Salem,
Integrated New Commercial Taxes Building,
IIIrd Floor, S.F.No.400/1, 7, 8, 46, Pudur B Village,
Erode – 638 002.

2.The Deputy State Tax Officer-I,
Kulithalai Assessment Circle,
Kulithalai. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records on the file of the second respondent in GSTIN.33AAFFT6786K1ZL/2019-2020 dated 14.02.2024 and quash the same as unconstitutional and with a further direction directing the first respondent to take the appeal in ROC.No.2831/2024/A1 dated 27.08.2024 by condoning 22 days of delay in filing the appeal filed by the petitioner.

For Petitioner : Mr.J.Sivaram

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

ORDER

The present Writ Petition is filed challenging the impugned order dated 14.02.2024, whereby the claim of Input Tax Credit was sought to be rejected on the premise that discrepancy was noticed between GSTR-3B and GSTR-7.

2. It is submitted by the learned counsel for the petitioner that the petitioner is the Managing Partner of Thangam Builders, registered under GST Act. The petitioner filed its returns and also paid appropriate taxes. It was submitted that a notice in Form DRC-1A and DRC-01 was issued to the petitioner through web portal. However, the petitioner was unaware of the notices in the portal and he has not responded to the same. In view thereof, the impugned order was made confirming the proposal. As against the same, the petitioner preferred an appeal before the appellate authority. However, the same was not entertained as it was beyond the stipulated period of limitation. In such circumstances, the Writ Petition has been filed.

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 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 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. It is made clear that any payment made subsequent to the order of assessment shall be adjusted while reckoning the deposit of 25% of the disputed taxes.

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

17.10.2024

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

To:

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2.The Deputy State Tax Officer-I,
Kulithalai Assessment Circle,
Kulithalai.

MOHAMMED SHAFFIQ, J.

Nsr

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