BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.10.2024

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THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

W.P.(MD).No.24608 of 2024
and
W.M.P.(MD).No.20949 of 2024

M/s.PC World,
Represented by its Partner O.Arunachalam. ... Petitioner

Vs.

The State Tax Officer,
O/o. the Joint Commissioner (ST) Intelligence,
Survey Unit, Madurai Division,
Madurai – 20. ...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 in the impugned order Ref No.ZD33123287325I dated 31.12.2023 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.J.K.Jayaselan Government Advocate

ORDER

The present Writ Petition is filed challenging the impugned order passed by the respondent dated 31.12.2023 on the premise that the same is made in violation of principles of natural justice.

2. It is submitted by the learned counsel for the petitioner that the petitioner is a registered dealer of computer, its parts, software and accessories, under the GST Act. The petitioner filed its return and paid appropriate taxes regularly. While so, there was surprise inspection by the Intelligence Wing of the petitioner's place of business on 10.01.2023 and 11.01.2023. During the course of inspection, the following defects were noticed:

Sl. No.	Defect No.	Issues	GST Demand				
		Issue	IGST	CGST	SGST	CESS	Total
1	1	Difference in tax liability between GSTR3B and GSTR1	11090			5882472	5893562
2	4	Exempted supply declared in GSTR9		99786	99786		199572
3	5	Discount Received		256857	256857		513714

4	6	Outward supply analysis as per GSTR3B & P & L		2008	2008		4016
5	7	Freight expenses under RCM		2463	2463		4926
6	8	Ineligible ITC/Blocked credit		79837	79837		159674
7	9	Purchase return relevant ITC reversal		16586	16586		33172
		TOTAL	11090	457537	457537	5882472	6808636

3. It is submitted by the learned counsel for the petitioner that the petitioner was issued with Form GST DRC-01A notice dated 31.08.2023, to which, the petitioner responded by filing a detailed representation dated 15.09.2023, which is stated to be supported with relevant documentary evidence. Thereafter, a show cause notice in Form GST DRC-01 dated 28.09.2023 followed by the impugned order dated 31.12.2023 were uploaded in the common portal. It is submitted that neither the show cause notice nor the impugned order of assessment has been served on the petitioner by tender or RPAD, instead it had been uploaded in the common portal under the tab "Additional Notices/Orders". It was further submitted that the petitioner was

unable to access the common portal and thus unable to participate in the adjudication proceedings. It is thus submitted that if the petitioner is provided with an opportunity, he would be able to put forth his case.

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 Government Advocate 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 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 petition stands closed.

18.10.2024

Index : Yes / No
Internet : Yes/ No
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To
The State Tax Officer,
O/o. the Joint Commissioner (ST) Intelligence,
Survey Unit, Madurai Division,
Madurai – 20.

MOHAMMED SHAFFIQ, J.

Lm

W.P.(MD).No.24608 of 2024

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