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.24394 of 2024

M/s.Fashion Care,
Represented by its Proprietor,
Mr.R.Kumaresan. ... Petitioner

Vs.

1.The Commercial Tax Officer (State Taxes),
Karur – 2,
Karur.

2.The Deputy Commissioner (State Taxes),
Karur District,
Karur.

3.The Deputy Commissioner (State Taxes),
Erode Division,
Erode. ...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned show cause notice issued by the first respondent u/s.73 of TNGST Act dated 04.05.2024 and set aside the same as illegal.

For Petitioner	:	Mr.R.Ramaguru
For Respondents	:	Mr.R.Sureshkumar Additional Government Pleader

ORDER

The present Writ Petition is filed challenging the impugned proceedings of the first respondent in Form GST DRC-07 dated 04.05.2024 relating to the assessment year 2021-2022.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in the business of export of Home Textiles products and registered under the TNGST Act, 2017. The petitioner filed its returns and paid appropriate taxes without any default. While so, on 04.05.2024, the first respondent issued notice in Form GST DRC-07, demanding the petitioner to pay a sum of Rs.22,83,734/- for non-payment of taxes for the assessment year 2021-2022, which was issued pursuant to the order of assessment on 03.05.2024.

3. The impugned proceedings is challenged on the premise that neither the show cause notice nor the order of assessment has been served on the petitioner by tender or RPAD, instead, it had been uploaded in the common portal. It was further submitted that the petitioner was unable to access the common portal and thus unable to participate in the adjudication proceedings.

4. The limited issue that arises for consideration in the impugned order is the alleged mismatch between GSTR-1 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-1 and GSTR-3B.

5. 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***.

6. 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 respondents does not have any serious objection.

7. In view thereof, the impugned proceedings dated 03.05.2024 and 04.05.2024 are set aside and the petitioner shall deposit 25% of the disputed tax within a period of four (4) 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 respondents 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., four weeks from the date of receipt of a copy of this order, the impugned order of assessment shall stand revived.

8. Accordingly, the Writ Petition stands disposed of. There shall be no order as to costs.

16.10.2024

Index : Yes / No
Internet : Yes/ No
Lm

To

1.The Commercial Tax Officer (State Taxes),
Karur – 2, Karur.

2.The Deputy Commissioner (State Taxes),
Karur District, Karur.

3.The Deputy Commissioner (State Taxes),
Erode Division, Erode.

MOHAMMED SHAFFIQ, J.

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