BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.10.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.(MD)No.25389 of 2024
and
W.M.P.(MD)Nos.21538 and 21539 of 2024

Tvl.Amirtha Super Market,
Represented by its Partner,
Raja Manikandan ... Petitioner

Vs.

The Deputy State Tax Officer – 2,
Sengottai Assessment Circle,
Sengottai, Tamil Nadu. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records on the file of the respondent herein in GST No. 33AAVFA1915F1ZM/2018-2019 dated 16.03.2024 and quash the same.

For Petitioner : Mr.S.Esai Rani

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

O R D E R

The present Writ Petition is filed challenging the order dated 16.03.2024 relating to the assessment year 2018-2019.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in supply of house hold articles. The petitioner is a registered dealer under GST Act. The petitioner had filed its returns and paid appropriate taxes. On scrutiny under Section 61 of the TNGST Act, it was found that there was a mismatch between GSTR-3B and GSTR-2A.

3. It is submitted by the learned counsel for the petitioner that the Form GST ASMT-10 dated 16.02.2023, Form GST DRC-01A dated 27.09.2023, summary of Show Cause Notice in DRC-01 dated 01.12.2023, personal hearing notices were issued only through GSTIN portal. However, the petitioner had not responded to the said notices. The respondent thus proceeded to pass the impugned order of assessment dated 16.03.2024. 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 GSTIN portal. Thus, the petitioner was unable to access the GSTIN portal and 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-3B and GSTR-2A. 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-2A.

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 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.

7. 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.

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

24.10.2024

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

<u>To:</u>

The Deputy State Tax Officer – 2,
Sengottai Assessment Circle,
Sengottai, Tamil Nadu.

MOHAMMED SHAFFIQ, J.

Nsr

W.P.(MD)No.25389 of 2024

24.10.2024