BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.(MD) No.25756 of 2024

Tvl.T.P.Kannu and Co. rep.by its Proprietor P.Manivannan	...	Petitioner

-vs-

The State Tax Officer, Tirunelveli Junction Assessment Circle, Tirunelveli.	...	Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a writ of certiorarified mandamus, to call for the records pertaining to the impugned order passed by the respondent vide his order in GSTIN. 33ACDPM7780N1Z3 ARN.AD331123045514K Tax Period 2018-2019, dated 30.04.2024, and quash the same as it is illegal and passed in gross violation of Principles of Natural Justice and further direct the respondent to re-do the assessment afresh after providing the petitioner an opportunity of personal hearing as per the provisions of the GST Act, 2017.

For Petitioner : Mr.A.Satheesh Murugan

For Respondents : Mr.R.Suresh Kumar,
Addl.Govt.Pleader.

ORDER

This Writ Petition has been filed challenging the order, dated 30.04.2024, passed by the respondent, on the premise that the same has been made in violation of principles of natural justice.

2. The petitioner is engaged in the business of supply of paints and hardware. The petitioner is registered under the G.S.T.Act and has been filing the returns and paying appropriate taxes. While so, there was a scrutiny under Section 161 of the TNGST Act. During the course of scrutiny, it was noticed that there was a discrepancy between GSTR 2A and GSTR2B. It has been proposed to reverse the credit on the premise that the condition prescribed under Section 16 (2) (c) of the TNGST Act has not been complied with by the petitioner. The petitioner was served with a Notice in form ASMT10 and DRC 01 and a personal hearing was also issued to the petitioner on 18.11.2023, 20.04.2024 and 25.04.2024. However, the petitioner has not availed of the said opportunity.

3. The limited issue that arises for consideration in the impugned order is the alleged mismatch between GSTR-2A 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-2A and GSTR-3B.

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 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 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, the connected W.M.P.(MD) Nos.21817 and 21819 of 2024 are closed.

25.10.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To:

The State Tax Officer,
Tirunelveli Junction Assessment Circle,
Tirunelveli.

MOHAMMED SHAFFIQ, J.

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