IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :21.01.2025

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.1255 of 2025
and
W.M.P.Nos.1502 and 1506 of 2025

M/s.Venkateswara Motors,
Represented by its Proprietor P.Ashokkumar
Attur Main Road,
Mangalapuram Post, Rasipuram,
Namakkal District.
(GSTIN:33AAMHP6543D1Z6) ... Petitioner

Vs.

1.The Commercial Tax Officer,
Attur (Rural) assessment circle,
Salem.

2.The Karur Vysya Bank Ltd.,
Rep. by its Branch Manager,
No.1/7, Attur-Rasipuram Main Road,
Mangalapuram,
Rasipuram Taluk 636 202. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent pertaining to the impugned order in Reference No.ZD330924085954U dated 12.09.2024 in GSTIN:33AAMHP6543D1Z6, quashing the same as illegal and consequently remit the file back to the first respondent for fresh consideration.

For Petitioner : Mr.S.Rajesh

For Respondents : Mr.G.Nanmaran,
Special Government Pleader for R1.

ORDER

The present writ petition is filed challenging the impugned order passed by the first respondent dated 12.09.2024 whereby the rectification petition filed by the petitioner was rejected.

2. The petitioner is engaged in the business of selling two-wheeler motorcycle spare parts and is registered under the Goods and Services Tax Act, 2017. During the relevant period viz., 2017-18, the petitioner filed its returns and paid the appropriate taxes. However, on scrutiny of the petitioner's monthly returns, it was noticed that there was an alleged mismatch between GSTR-1 and GSTR-3B.

2.1. Pursuant thereto, a Show Cause Notice in DRC-01 was issued on 30.09.2023. Personal hearing was offered on 14.10.2023. However, the petitioner had neither filed its reply nor availed the opportunity for a personal hearing. Hence, the assessment order dated 29.12.2023 came to be passed, confirming the proposal.

3. It is submitted by the learned counsel for the petitioner that on receipt

of the above order of assessment, the petitioner found that it suffers from an error apparent on the face of record, therefore, the petitioner submitted an application for rectification on 26.03.2024 wherein it was stated that while filing the return for the month of March 2018, certain transactions were inadvertently not reported, however, on realizing the said error, the petitioner included the said transactions while filing the returns for the period from July 2018 to September 2018. It was then submitted that none of the transactions have been omitted and therefore, the alleged mismatch between GSTR-3B and GSTR-1 really does not exist. Since the returns for the period from July 2018 to September 2018 were also filed before the very same officer, the impugned order which proceeded on the basis of mismatch between GSTR-3B and GSTR-1 suffers from an error apparent on the face of record. The first respondent, however, rejected the rectification application by merely stating that the reasons provided were not satisfactory. It is thus submitted by the learned petitioner that the impugned order suffers from vice of being non-speaking order inasmuch as it does not assign any reasons for rejecting the rectification application.

4. The learned counsel for the respondents would submit that they would reconsider the rectification petition and pass orders afresh after affording the petitioner a reasonable opportunity of hearing.

5. In view thereof, there shall be a direction to the respondents to reconsider the rectification petition filed by the petitioner and pass orders afresh in accordance with law within a period of eight (8) weeks from the date of receipt of a copy of this order after affording the petitioner a reasonable opportunity of hearing.

6. Accordingly, the writ petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

21.01.2025

Speaking (or) Non Speaking Order
Index : Yes/ No
Neutral Citation: Yes/No
shk

To:

1.The Commercial Tax Officer,
Attur (Rural) assessment circle,
Salem.

2.The Karur Vysya Bank Ltd.,
Rep. by its Branch Manager,
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MOHAMMED SHAFFIQ, J.

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