IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2025

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.955 of 2025
and
W.M.P. Nos.1159 and 1160 of 2025

Nallallam Ellappan Bhaskaran,
Proprietor of
M/s.Tvl.Sri Velmurugan Translines &
Sree Velmurugan Aqua Farms,
No.12, Rasi Nagar, 2nd Street,
Puzal, Chennai-600 006. ... Petitioner

Vs.

Deputy Commercial Tax Officer,
Surappattu Assessment Circle,
Integrated Commercial Tax Officer Complex,
1st Floor, No.1275/3, Bridge Road, Vepery,
Chennai-600 003. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records pertaining to the impugned order 23.11.2023 issued in reference no.ZD331123147244V by the Respondent with respect to assessment year 2017-18 and quash the same.

For Petitioner : Mr.Derrick Sam

For Respondent : Ms.Amrita Dinakaran
Government Advocate

ORDER

The present writ petition is filed challenging the impugned order dated 23.11.2023 relating to the assessment year 2017-18.

2. It is submitted by the learned counsel for the petitioner that the petitioner is registered under the Goods and Services Tax Act, 2017. During the relevant period 2017-18, the petitioner filed its returns and paid the appropriate taxes. However, on comparison of the input tax credit availed against reverse charge and liability declared against inward supply on reverse charge, it was noticed that the petitioner has claimed input tax credit over and above that of the tax paid under reverse charge mechanism.

3. It is submitted by the learned counsel for the petitioner that a notice in DRC-01A was issued on 15.09.2023 and another notice in DRC-01 was issued on 22.09.2023. Further, personal hearing and reminder notice was issued on 01.11.2023. However, the petitioner had neither filed its reply nor availed the opportunity for a personal hearing. It is submitted by the learned counsel for the petitioner that neither the show cause notices nor the impugned order of assessment has been served on the petitioner by tender or sending it by RPAD, instead it had been uploaded under "view additional notice column" on the GST

Portal, thereby, the petitioner was unaware of the initiated proceedings and was thus unable to participate in the adjudication proceedings. It is submitted by the learned counsel for the petitioner that if the petitioner is provided with an opportunity, they would be able to explain the alleged discrepancies.

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,*** to submit that this court has remanded the matter back in similar circumstances subject to payment of 25% of the disputed taxes.

5. It is submitted by the learned counsel for the petitioner that subsequent to the passing of the impugned order, entire taxes have already been recovered and would only request that they may be granted one opportunity to put forth their objections, which was not objected to by the learned Government Advocate for the respondent, while seeking liberty to verify the correctness of the statement made by the petitioner.

6. In view thereof, the impugned order dated 23.11.2023 is set aside. 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. It is made clear that if objections are not filed within the stipulated period viz., four weeks from the date of receipt of a copy of this order, the impugned order of assessment shall stand restored.

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

22.01.2025

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

To:
Deputy Commercial Tax Officer,
Surappattu Assessment Circle,
Integrated Commercial Tax Officer Complex,
1st Floor, No.1275/3, Bridge Road, Vepery,
Chennai-600 003.

MOHAMMED SHAFFIQ, J.

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