IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

WP No.1723 of 2025
and
WMP Nos.1974, 1975 and 1976 of 2025

Tvl.Mahalakshmi Traders
Represented by its Proprietor Pandiyan Chandran ... Petitioner

versus

1.The State Tax Officer,
(Also Known as "Commercial Tax Officer")
Ayanavaram Assessment Circle,
Station:F/50, 3rd Floor, First Avenue, Anna Nagar (East),
Chennai -102

2.The Assistant Commissioner (ST) (FAC)
Ayanavaram Assessment Circle,
No.F.50, 1st Avenue, Anna Nagar (East)
Chennai-600 102

3.The Branch Manager,
HDFC Bank,
No.CG, 1,2,3, Varalakshmi Villa,
No.217/219, Konnur High Road,
Ayanavaram, Chennai- 600 023 ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of Certiorari, calling for the records on the files of the first respondent herein in the order reference number GSTIN-33AGFPC4144C1Z6/2017-18 dated 8th December, 2023 along with the summary of the order in form GST DRC 07 vide Reference No.ZD331223048024Z dated 8th December, 2023 for the tax period July 2017 to March 2018, quash the same and pass orders.

For the Petitioner :Mr.S.Vishnupriya

For the Respondents :Mr.V.Prashanth Kiran
Government Advocate

ORDER

The present Writ Petition is filed challenging the impugned order passed by the first respondent dated 08.12.2023 relating to the assessment year 2017-18.

2. The petitioner is a registered dealer under Goods and Services Act, 2017. During the relevant period, the petitioner had filed its return and paid appropriate taxes. However, on verification of the monthly returns, it was noticed that there was mismatch between GSTR 1 and GSTR 3B.

2.1. Pursuant thereto, a show notice in DRC 01 was issued to the petitioner on 20.03.2023 and reminders on 17.05.2023, 10.06.2023 and 19.06.2023. In response to the same, the petitioner had filed its reply on 26.06.2023, however the same was rejected on the premise that it lacks merit and the impugned order came to be passed, confirming the proposal.

3. 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.*** It is further submitted by the learned counsel for the petitioner that more than 25% of the disputed taxes have been paid and that they may be granted an opportunity before the adjudicating authority to put forth their objections to the proposal.

4. Taking into account the peculiar facts of the case, wherein, the petitioner has already remitted more than 25% of the disputed taxes, this

Court is of the view that the petitioner may be granted one final opportunity to put forth his objections, which was not objected to by the learned Government Advocate for the respondent, while seeking liberty to verify the correctness of the statement relating to remittance made by the petitioner.

5. Since, the above order is made on the basis of the statement made by the learned counsel for the petitioner that more than 25% of the disputed taxes has been remitted already, the respondent may verify the same. If the statement made by the learned counsel for the petitioner regarding the payment of more than 25% of the disputed taxes is incorrect, the respondent authority shall intimate the same to the petitioner within a week from the date of receipt of a copy of this order, who shall within 2 weeks from the date of such intimation deposit 25% of disputed taxes. Subject to verification of payment of 25% of disputed taxes or on payment of 25% of disputed taxes, attachments if any, would be lifted.

6. In view thereof, the impugned order is set aside. The petitioner shall treat the impugned order of assessment as show cause notice and 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 the petitioner a reasonable opportunity of hearing. It is made clear that if the condition in paragraph 6 of this order, relating to payment of 25% of disputed taxes is not complied with in therms thereof or if the objections are not filed within the stipulated period i.e. four weeks respectively 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. No costs. Consequently, connected miscellaneous petitions are closed.

22.01.2025

Index : Yes/No
Neutral Citation : Yes/No
mrn
To
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MOHAMMED SHAFFIQ, J.

(mrn)

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