IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2025

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.38320 of 2024
and
W.M.P. Nos.41488 and 41490 of 2024

Tvl. Sri Raasi Automobiles,
Rep. by its Partner
T. Hari Raj,
No.597, C.T.H Road,
Charless Nagar,
Pattabiram, Thiruvallur District,
Chennai 600 072. ...Petitioner

Vs.

The Deputy State Tax Officer – I,
Avadi Assessment Circle,
Station No.32, Integrated Commercial Taxes Offices Building,
(Thiruvallur Division), 1st Floor, Room No.122,
Elephant Gate Bridge Road,
Vepery, Chennai – 600 003. ...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorari calling for the records in order in Reference No.ZD331223201475X, dated 26.12.2023 relating to the financial year 2017-2018 on the file of the respondent herein and quash the same.

For Petitioner : Mr.B. Manoharan
For Respondent : Mr.G. Nanmaran
Special Government Pleader

ORDER

The present Writ Petition is filed challenging the impugned order dated 26.12.2023 passed by the respondent relating to the assessment year 2017-2018.

2. Mr.G. Nanmaran, learned Special Government Pleader takes notice on behalf of the respondent. By consent of the parties, the main Writ petition is taken for disposal at the admission stage itself.

3. It is submitted by the learned counsel for the petitioner that the petitioner is a partnership firm doing retail business in car and bike accessories and is registered under the Goods and Services Tax Act, 2017. During the relevant period 2017-2018, the petitioner filed its returns and paid the appropriate taxes. However, during the scrutiny of the petitioner's return, it was found that on comparison of

the Input Tax Credit availed in Table 4.A.(2) + 4.A.(3) of GSTR-3B against reverse charge and liability declared against inward supply on reverse charge in Table 3.1d of GSTR-3B, it was noticed that the petitioner had claimed excess input tax credit.

4. Subsequently, notices in Form DRC-01A dated 04.09.2023 and Form DRC-01 dated 26.09.2023 were issued to the petitioner through GST Portal. The petitioner vide its reply dated 28.09.2023, submitted that no transaction is liable on Reverse Charge Mechanism. However, the impugned order has been passed, confirming the proposal on the premise that the petitioner had not submitted any supporting documents nor availed an opportunity of personal hearing. It is also 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.

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,*** to submit that this court has

remanded the matter back in similar circumstances subject to payment of 25% of the disputed taxes.

6. It was further submitted that the petitioner is ready and willing to pay 25% of the disputed tax and that they may be granted one final opportunity before the adjudicating authority to put forth their objections to the proposal, to which the learned Special Government Pleader appearing for the respondent does not have any serious objection.

7. By consent of both parties, the writ petition stands disposed of on the following terms:

a) The impugned order dated 26.12.2023 is set aside.

b) The petitioner shall deposit 25% of the disputed taxes as admitted by the learned counsel for the petitioner and the respondent, within a period of four weeks from the date of receipt of a copy of this order.

c) If any amount has been recovered or paid out of the disputed taxes, including by way of pre-deposit in appeal, the same would be reduced/adjusted, from/towards the 25% of disputed taxes directed to be paid. The assessing authority shall then intimate the balance amount out of 25 % of disputed taxes to be paid, if any, within a period of one week from the date of receipt of a copy of this order. The petitioner shall deposit such remaining sum within a period of three weeks from such intimation.

d) The entire exercise of verification of payment, if any, intimation of the balance sums, if any, to be paid for compliance with the direction of payment of 25% of the disputed taxes, after deducting the sums already paid and payment by the petitioner of the balance amount, if any, on intimation in compliance with the above direction shall be completed within a period of four weeks from the date of receipt of copy of this order.

e) Failure to comply with the above condition viz., payment of 25% of disputed taxes within the stipulated period i.e., four weeks from the date of receipt of a copy of this order shall result in restoration of the impugned order.

f) If there is any recovery by way of attachment of Bank account or garnishee proceedings, the same shall be lifted /withdrawn on complying with the above condition viz., payment of 25 % of the disputed taxes.

g) 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. It is made clear that if the above conditions viz., 25% of disputed taxes is not complied or objections are not filed within the stipulated period, four weeks respectively from the date of receipt of a copy of this order, the impugned order of assessment shall stand restored.

8. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

02.01.2025

Speaking (or) Non Speaking Order
Neutral Citation: Yes/No
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To
The Deputy State Tax Officer – I,
Avadi Assessment Circle,
Station No.32, Integrated Commercial Taxes Offices Building,
(Thiruvallur Division), 1st Floor, Room No.122,
Elephant Gate Bridge Road,
Vepery, Chennai – 600 003.

MOHAMMED SHAFFIQ, J.

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