IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2025

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.39972 of 2024
and
W.M.P.Nos.43277 and 43278 of 2024

M/s.Vinay Blue Metal,
Represented by its proprietor,
Mr.M.Vinay Kumar,
08 Hosur Main Road, Sanamavu,
Hosur, Krishnagiri District 635113. .. Petitioner

Vs.

The Deputy State Tax Officer (Intelligence),
Adjudication & Legal Wing,
Office of the Joint
Commissioner (ST) (Intelligence Wing),
3/47, Sapthagiri Complex,
Thorapalli Agraharam Village,
Gandhi Nagar, Hosur Taluk,
Krishnagiri District 635109.
.. Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the connected records pertaining to the impugned proceedings of the respondent herein made in GSTIN:33AXCPV6736D1ZF/2020-21 dated 01.04.2024 and quash the same.

For Petitioner : Mr.Manoharan S Sundaram

For Respondent : Mr.V.Prashanth Kiran
Government Advocate

ORDER

The present writ petition is filed challenging the impugned order dated 01.04.2024, passed by the respondent in GSTIN 33AXCPV6736D1ZF/2020-21, on the premise that the same is made in violation of principles of natural justice.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in the business of selling Granite, Sandstone, etc., and is registered under the GST Act. During the relevant period of 2020-21, the petitioner had filed the returns and paid appropriate taxes. There was an inspection at the petitioner place of business on 03.05.2023. During the course of inspection, it was inter alia found that there was excess claim of Input Tax Credit.

3. It is submitted by the learned Counsel for the petitioner that an intimation in notice DRC 01A was issued to the petitioner on 12.01.2024, followed by a notice in DRC01 on 07.02.2024. Thereafter, three personal hearings were granted to the petitioner viz., 07.03.2024, 15.03.2024 and 26.03.2024. However, the petitioner neither appeared for personal hearing nor responded to any of the above notices / intimation and the impugned order came to be passed. 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 in the GST Portal, thereby, the petitioner was unaware of the initiated proceedings and was thus unable to participate in the adjudication proceedings. It is further submitted by the learned counsel for the petitioner that the petitioner had paid more than 90% of the disputed taxes and 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 90% 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.

5. 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 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.

6. Accordingly, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

06.01.2025

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

To:

The Deputy State Tax Officer (Intelligence),
Adjudication & Legal Wing,
Office of the Joint
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3/47, Sapthagiri Complex,
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MOHAMMED SHAFFIQ, J.

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