

W.P.No.35797 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.35797 of 2024

Sri Murugan Typewriting Institute,
Represented by its Proprietor, K.S.Rameshbabu,
No.45, Doraivaripettai Road, Tiruttani,
Tiruvallur -631209.

..Petitioner

Vs.

1.The Deputy Commissioner (CT),
O/o.The Deputy Commissioner (ST),
GST-Appeal, Chennai-I, Main Building, 2nd Floor,
No.1, Greams Road, Chennai-600006.

2.The Deputy State Tax Officer-1/The Deputy Commercial
Tax Officer,
Tiruttani Assessment Circle,
Tiruvallur Division, Tiruvallur District.

3.The Branch Manager,
Canara Bank,
No.21, Chittor Road, Opp. to Police Quarters,
Tiruttani- 631 209.

..Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorari calling for demand order made in Reference No.ZD3310231682840 dated 27.10.2023 by the second respondent and order dated 18.10.2024 passed in ARN # AD330824039168Y passed by the first respondent and quash the same and consequently direct the respondents to give an opportunity of personal hearing and pass orders.

For Petitioner : Mr.P.Suresh Babu

For Respondents : Mr.G.Nanmaran
Special Government Pleader
for respondents 1 and 2

ORDER

The present writ petition is filed challenging the impugned order passed by the first respondent dated 27.10.2023 relating to the assessment year 2019-20.

2. The petitioner is engaged in the services of teaching typewriting and is a registered person under the Goods and Services Act, 2017. During the relevant period, the petitioner filed its return and paid the appropriate taxes. However,



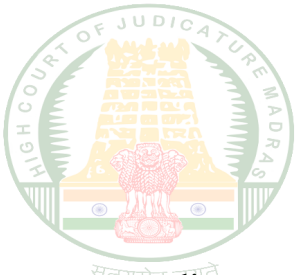
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during the scrutiny of the petitioner's return, it was found that there was mismatch between GSTR 1 and GSTR 3B. Subsequently, a notice was issued to the petitioner in Form ASMT-10 on 28.01.2023, followed by a notice in DRC-01A on 24.04.2023. The petitioner was also issued show cause notice in DRC-01 on 05.08.2023 and reminders on 07.09.2023, 06.10.2023 and 18.10.2023. However, the petitioner had neither filed its reply nor paid the tax amount. Hence, the impugned order came to be passed, confirming the proposal. Aggrieved by the same, the petitioner preferred an appeal before the first appellate authority, which was however rejected on the ground that the same is beyond the statutory period.

3. The impugned order is challenged on the premise that neither the show cause notices nor the impugned order of assessment have been served by tendering to the petitioner or by registered post, instead it was uploaded in the common portal. It was further submitted that the petitioner was unable to access the common portal and thus was unable to participate in the adjudication proceedings.

4. 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. The learned counsel for the petitioner would then place



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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 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. It is further submitted that subsequent to the order of the assessment, apart from 10% which was paid before the appellant authority, there were also other amounts to the extent of Rs.10 Lakhs remitted in excess of the admitted tax and his only request is that the same may be adjusted towards 25% of the disputed tax. It is further submitted that there is bank attachment and the same may be lifted/withdrawn, to which, the learned Special Government Pleader appearing for the respondents does not have any serious objection.

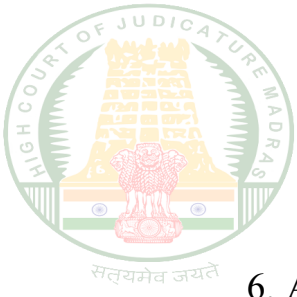
5. In view thereof, the impugned order is set aside and the petitioner shall deposit 25% of the disputed tax within a period of four (4) weeks from the date of receipt of a copy of this order. The respondent authority shall take into account the amount remitted by the petitioner in excess of the admitted tax, while reckoning 25% of the disputed tax. On complying with the above condition, the impugned



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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. If the above deposit is not paid or 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. It was submitted that pursuant to the impugned order of assessment, recovery proceedings were initiated and bank accounts have been attached. In view of the order passed herein, the bank attachment shall be lifted/withdrawn forthwith on complying with the above condition i.e., payment of 25% of disputed taxes within a period of four weeks from the date of receipt of a copy of this order.



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6. Accordingly, the Writ Petition stands disposed of. There shall be no order as to costs. Consequently, W.M.P.Nos.38665 and 38666 of 2024 are closed.

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

To

- 1.The Deputy Commissioner (CT),
O/o.The Deputy Commissioner (ST),
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Tax Officer,
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MOHAMMED SHAFFIQ, J.



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