



W.P. No.25647 of 2024

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 19.11.2024**

**CORAM**

**THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ**

**W.P. No.25647 of 2024**

**and**

**W.M.P.Nos.28013, 28014, 28016 & 28018 of 2024**

Tvl.SKS Cranes,

Represented by its proprietor Mr. M. Devaraj

245-A Teachers Colony,

Guruvareddiur,

Bhavani Erode 638 504.

... Petitioner

**Vs.**

1. The Deputy State Tax Officer,  
Bhavani Assessment Circle,  
No.158/1002, Pookadai Veedhi,  
Bhavani, Erode 638 301.
2. The Deputy Commissioner (ST),  
No.161, Brough Road, Ground Floor,  
Commercial Taxes Building,  
Erode 638 001.
3. The Assistant Commissioner (ST),  
Bhavani Assessment Circle,  
No.161, Brough Road, Ground Floor,  
Commercial Taxes Building,  
Erode 638 001.
4. The Branch Manager,  
Indian Bank,  
Dharmapuri Main Road,  
Chamrajpet, Mecheri 636 451.



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5. Tvl.Maktek Steel Solution Pvt. Ltd.,  
No.27/17, Ragavandhara Neelayam,  
2<sup>nd</sup> Street, Sai Nagar, Jawahar Nagar,  
Chennai 600 082.

6. The Village Administrative Officer,  
Guruvareddiyur Village,  
Guruvareddiyur 638 504.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records on the files of the 1st Respondent herein in FORM GST DRC - 07 with Reference No. ZD331223164721Q dated 21.12.2023 along with detailed order in GSTIN/33ANQPD1292C1ZC/2017-18 dated 21.12.2023 for the assessment period 2017-18 and quash the same.

|                |                                                       |
|----------------|-------------------------------------------------------|
| For Petitioner | : Mr.N.Chandirasekar                                  |
| For R1 to R3   | : Mr.T.N.C.Kaushik<br>Additional Government Pleader   |
| For R4         | : Given up                                            |
| For R5         | : Mr.M.K.Bhoopathy Rajan                              |
| For R6         | : Mr.P.Balathandayutham<br>Special Government Pleader |

### **ORDER**

The present Writ Petition is filed challenging the impugned orders dated 21.12.2023 relating to the assessment year 2017-2018.

2. The petitioner is a proprietary concern, *inter alia*, involved in the activity of earth moving with help of cranes. During the relevant period, the petitioner had filed its return and paid appropriate taxes. While scrutinizing the



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petitioner's return, it was found that there was mismatch between GSTR 3B and GSTR 2A. Subsequently, notices were issued in Form ASMT-10 and Form DRC-01A to the petitioner on 05.07.2023 and 25.08.2023 respectively through GST Portal, followed by a show cause notice in Form GST DRC-01 to the petitioner on 25.09.2023 and also the reminder notice along with personal hearing was also afforded to the petitioner on 20.11.2023. However, the petitioner had neither filed its reply nor appeared for personal hearing. Hence, the impugned order came to be passed confirming the proposal.

3. The impugned order is challenged on the premise that the notices and orders were uploaded in the GST Portal, thereby, the petitioner was unaware of the initiated proceedings and thus unable to participate in the adjudication proceedings.

4. The limited issue that arises for consideration in the impugned order is the alleged mismatch between GSTR-3B and GSTR-2A. It is submitted by the learned counsel for the petitioner that if the petitioner is provided with an opportunity, it would be able to explain the aforesaid discrepancies between GSTR-3B and GSTR-2A.



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

6. In view thereof, the impugned orders dated 21.12.2023 is set aside and the petitioner shall deposit 25% of the disputed tax to the first respondent within a period of two (2) weeks from the date of receipt of a copy of this order. 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 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 first 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,



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i.e., two weeks and four weeks respectively from the date of receipt of a copy of this order, the impugned order of assessment shall stand restored.

7. At this juncture, it is submitted by the learned counsel for the petitioner that pursuant to the impugned order of assessment, recovery proceedings were initiated and petitioner's Bank account maintained with fourth respondent has been attached. On complying with the above condition viz., payment of 25% of disputed tax within a period of two weeks from the date of receipt of a copy of this order, the attachment made on the petitioner's Bank account would be lifted/withdrawn.

8. Accordingly, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

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Speaking (or) Non Speaking Order

Index : Yes/ No

Neutral Citation: Yes/No

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To

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**MOHAMMED SHAFFIQ, J.**

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