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W.P.No.550 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :09.01.2025

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

**W.P. No.550 of 2025
and
W.M.P.Nos.658 and 660 of 2025**

Tvl.Sri Vigneshwara Hardwares,
GSTIN:33ACNFS6328J1ZQ.

Represented by its partner Krishnan Loganathan,
No.125, Pankaja Mill Road,
Ramanathapuram,
Coimbatore 641 045.

... Petitioner

Vs.

The State Tax Officer,
Trichy Road Circle, Commercial Tax Office Buildings,
Dr.Balasundaram Road,
Coimbatore 641 018.

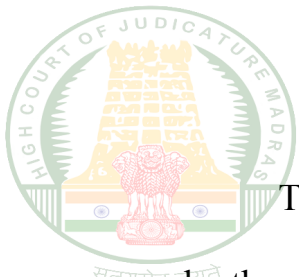
... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari and call for the records pertaining to the impugned order in Form GST DRC-07 bearing reference number ZD3308231653395/2019-20 dated 29.08.2023 issued by the respondent and quash the same.

For Petitioner : Mr.G.Derrick Sam

For Respondent : Mr.C.Harsha Raj,
Additional Government Pleader.

ORDER



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The present writ petition is filed challenging the impugned order passed by the respondent dated 29.08.2023 relating to the assessment year 2019-20.

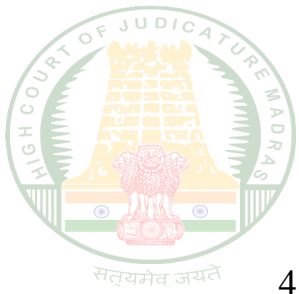
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2. The petitioner is registered under the Goods and Services Tax Act, 2017. During the relevant period of 2019-20, the petitioner filed its returns and paid the appropriate taxes. However, on verification of the petitioner's monthly return, the following discrepancies were noticed viz.,

- i. Output Mismatch (GSTR-3B and GSTR-1)
- ii. Input Mismatch (GSTR-3B and GSTR-2A)

2.1. Pursuant thereto, a notice in DRC-01A was issued on 20.04.2023, followed by a Show Cause Notice in DRC-01 on 12.06.2023. Personal hearing was offered on 19.06.2023. However, the petitioner had neither filed its reply nor availed the opportunity for a personal hearing. Hence, the impugned order came to be passed, confirming the proposal.

3. The impugned order is challenged on the premise 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 under View Additional Notices column in the GST Portal, thereby, the petitioner was unaware of the initiated proceedings and was thus unable to participate in the adjudication proceedings.



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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 reliance upon the recent judgment of this Court in the case of ***Sree Manoj International Vs. Deputy State Tax Officer in W.P.No.10977 of 2024 dated 25.04.2024***, to submit that this court has remanded the matter back in similar circumstances subject to payment of 10% of the disputed taxes. It is submitted by the learned counsel for the petitioner that the petitioner had filed an appeal dated 15.07.2024 before the Appellate Authority along with 10% pre-deposit, which has been rejected on the ground of being barred by limitation and his only request is that the same may be adjusted towards 10% of the disputed tax, to which, the learned Additional Government Pleader appearing for the respondent does not have any serious objection.

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

- a) The impugned order dated 29.08.2025 is set aside.
- b) The petitioner shall deposit 10% 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.



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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 10% of disputed taxes directed to be paid.

The assessing authority shall then intimate the balance amount out of 10% 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 10% 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 10% 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 10 % 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



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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., 10% 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.

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

09.01.2025

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

MOHAMMED SHAFFIQ, J.

shk

To:

The State Tax Officer,
Trichy Road Circle, Commercial Tax Office Buildings,
Dr.Balasundaram Road,
Coimbatore 641 018.



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(3/3)**