IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2025

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.1323 of 2025
and
W.M.P.Nos.1576 and 1578 of 2025

M/s.NTT India Private Limited,
5th Floor, No.143/1,
Opposite The Park Hotel,
Uthamar Gandhi Road, Nungambakkam,
Chennai 600 034. .. Petitioner

Vs.

1. Joint Commissioner (ST), Intelligence-I,
   PAPJM Building, Greams Road,
   Chennai 600 006.

2. State Tax Officer, Group VII,
   Inspection, Intelligence -I,
   Room No.119, 1st Floor,
   PAPJM Building, Greams Road,
   Chennai 600 006.

3. The Assistant Commissioner (ST),
   Valluvarkottam Assessment Circle,
   No.1, PAPJM Building (Annex), 6th Floor,
   Greams Road, Chennai 600 006.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the Impugned Order -in-Original in Form GST DRC 07 bearing Reference No:ZD3308241379072 dated 16.08.2024 issued by the 2nd respondent and quash the same and consequentially issue a direction that any amount paid by the petitioner pursuant to the direction of this Hon'ble Court may be appropriated with the pre-deposit amount payable under Section 107 of the CGST/TNGST Act, 2017 or be allowed to file a refund application under Section 54 of CGST / TNGST Act, 2017.

For Petitioner : Mr.Harish Bindumadhavan

For Respondents : Mr.C.Harsha Raj
Additional Government Pleader

ORDER

The present writ petition is filed challenging the impugned order dated 16.08.2024 on the limited ground that the impugned order insofar as the amount of tax demanded in the impugned order is in excess of the amount which was specified in notice under DRC 01.

2. It is submitted by the learned counsel for the petitioner that the taxes demanded in DRC 01 was Rs.54.50 Crores which was arrived at on the basis of more than 25 issues. In response the petitioner had submitted its reply to each of the above issues, which was considered and out of the 54.50 crores close to 51 Crores has been dropped. However, the impugned order has been passed levying a tax of Rs.137 Crores. It is submitted by the learned counsel for the petitioner that the impugned order insofar as it demands taxes in excess of which is disclosed in the show cause notice is hit by the mandate contained under Section 75(7) of the Act.

3. The learned counsel for the respondent would submit that show cause notice did not quantify all of the issues resulting in excess demand of Rs.137 Crores which was set out in the impugned order. In response the learned counsel for the petitioner would submit that the mandate of Section 75(7) would still be violated inasmuch the tax demanded is in excess of the amount specified in the notice.

4. In view of the peculiar facts, it was suggested that Rs.2 crores may be paid and the matters be remanded back for a fresh consideration, which was agreed to by both the learned counsel for the petitioner as well as for the respondents.

5. In view thereof the matters are remanded back to the assessing officer for a de novo consideration subject to the condition the petitioner pays the amount of Rs.2 Crores within a period of 3 weeks from the date of receipt of a copy of this order. 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. If the above deposit is not paid or objections are not filed within the stipulated period, i.e., three (3) 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.

27.01.2025

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

To:

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MOHAMMED SHAFFIQ, J.

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