IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2025

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.732 of 2025 and
W.M.P.Nos.899 & 900 of 2025

Yalavarti Projects Private Limited,
Rep., by its Managing Director,
Yalavarthi Vamsi Krishna,
1382, Ground Floor, Pandiyan Street,
Akash Nagar, Chennai,
Kanchipuram 600 128. ...Petitioner

Vs.

1. The Deputy Commissioner (Appeal),
GST Appeal, Chennai-II,
No.1, Greams Road, Commercial Tax Offices,
Annex Building, Chennai 600 006.

2. The Assistant Commissioner (ST),
Office of the Assistant Commissioner (ST),
Ekkatuthangal Assessment Circle,
Room No.305, Third Floor,
Integrated Building of Commercial Taxes &

Registration Department, Nandanam,
Chennai 600 035. .... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorarified Mandamus, calling for the records pertaining to Impugned Demand dt.27.09.2024 made in ZD3309241839511 under Section 73 of CGST/TNGST Act 2017, for Tax period April 2023 - January 2024, along with DRC 07 made by the 2nd Respondent and to quash the same.

For Petitioner : Mr.P.Vikramkumar
For Respondents : Mr.V.Prashanth Kiran
Government Advocate

ORDER

The present Writ Petition is filed challenging the impugned demand order dated 27.09.2024 passed by the second respondent relating to the assessment year 2023-24.

2. The petitioner is a company engaged in the business of works contract services viz., supplying works contract service of electrical & plumbing works, firefighting & fire protection system and public health works and is registered under the Goods and Service Tax Act, 2017. During the relevant period 2023-

2024, the petitioner had filed its return and paid appropriate taxes. While so, on verification of the returns filed by the petitioner, it was noticed that the petitioner had availed ineligible Input Tax Credit.

3. Subsequently, a notice in Form DRC-01A dated 05.06.2024, and a show cause notice in Form DRC-01 dated 21.06.2024 were issued to the petitioner through common portal by mentioning the date of personal hearing. Further, reminder notices were issued to the petitioner and personal hearing opportunities were also granted to the petitioner. However, the petitioner had neither filed its reply nor availed an opportunity of personal hearing. Hence, the impugned demand order came to be passed, confirming the proposals.

4. The learned counsel for the petitioner would further submit that 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. It is also 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.

5. The learned counsel for the petitioner would 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.

6. It was further submitted that the petitioner is ready and willing to pay 10% of the disputed tax and that he may be granted one final opportunity before the adjudicating authority to put forth their objections to the proposal, to which the learned Government Advocate appearing for the respondent does not have any serious objection.

7. By consent of parties, this writ petition stands disposed of on the following terms:

a) The impugned demand order dated 27.09.2024 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.

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 demand 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 demand 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. 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 demand order of assessment shall stand restored.

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

10.01.2025

Speaking (or) Non Speaking Order
Neutral Citation: Yes/No
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MOHAMMED SHAFFIQ, J.

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To
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