W.P.Nos.399 & 402 of 2025

MOHAMMED SHAFFIQ, J.

At the instance of the learned counsel for the petitioner, today, the matter is listed under the caption “for being mentioned”.

2.It is submitted by the learned counsel for the petitioner that this Court by its order dated 08.01.2025 set aside the impugned order's dated 29.08.2024 and 22.07.2024 in W.P.No.402 of 2025 and W.P.No.399 of 2025 respectively. However, the order in para 7 (b) does not expressly set out the date of the impugned order.

3. Heard both sides.

4.In view of the said submission made by the learned counsel for the petitioner, in para 7 (b) of the order dated 08.01.2025, stands substituted with the following;

> ***" b.The petitioner shall deposit 25% of the disputed taxes in terms of the impugned order dated 22.07.2024 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."***

5. Except the above modification, all other paragraphs made in the earlier order dated 08.01.2025 shall remain intact. Registry is directed to carry out necessary correction and issue the corrected order copy to the parties forthwith.

sms **28.01.2025**

MOHAMMED SHAFFIQ, J.

sms

W.P.Nos.399 & 402 of 2025

28.01.2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2025

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THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

W.P.Nos.399 & 402 of 2025
and
W.M.P.Nos.455, 456, 460, 461, 462 and 463 of 2025

Tvl.Jebarajan Kala
Proprietrix : Angel Infotech
A2, Kakkan Street, Ambal Nagar Extn,
Ramapuram, Chennai-600 089. ...Petitioner in both WPs

Vs

1. The State Tax Officer
Ramapuram Assessment Circle
46, 2nd Floor, Mylapore Taluk Office Building
Greenways Road, Chennai-600 028.

2. The Manager
Bank of Maharashtra
603, Mount Road, Anna Salai,
Chennai. ... Respondents in both WPs

Writ Petition No.399 of 2025 filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 1st respondent passed in GSTIN33EANPK6156E1ZM/2019-20 with consequential order u/s.73 and Form GST DRC-07 having reference No.ZD330724262154J and dated 22.07.2024 for the tax period April 2019-March 2020 relating to financial year 2019-20 and quash the same as illegal, contrary to the provisions of the Act and records and against the principles of natural justice and fair play and direct the 1st respondent to reverse the suo motu debiting of the Electronic Credit Ledger of the petitioner.

Writ Petition No.402 of 2025 filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to call for the records on the file of the 1st respondent passed in GSTIN33EANPK6156E1ZM/2019-20 with consequential order u/s.73 and Form GST DRC-07 having reference No.ZD3308242792101 and dated 29.08.2024 for the tax period April 2019-March 2020 relating to financial year 2019-20 and quash the same as illegal, contrary to the provisions of the Act and records and against the principles of natural justice and fair play and direct the 1st respondent to reverse the suo motu debiting of the Electronic Credit Ledger of the petitioner.

For Petitioner in both WPs	:	Mr.T.Pramod Kumar Chopda Senior Counsel for Mr.S.Balasubramanian
For Respondents in both WPs	:	Mrs.K.Vasanthamala Government Advocate, for R1

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COMMON ORDER

The present writ petitions are filed challenging the impugned orders dated 22.07.2024 and 29.08.2024 relating to the assessment year 2019-2020 on the ground of violation of principles of natural justice.

2. It is submitted by the learned counsel for the petitioner that the petitioner is registered under the Goods and Services Tax Act, 2017. During the relevant period 2019-2020, the petitioner filed its returns and paid the appropriate taxes. However, during the scrutiny of the petitioner's monthly return, it was found that there was a mismatch between GSTR-1 and GSTR-3B and GSTR-3B and GSTR-7.

3. Pursuant thereto, a scrutiny notice dated 09.03.2022 was issued, followed by a notice in DRC-01 dated 13.04.2022, reminders were again issued on 19.02.2024, 24.04.2024 and 04.07.2024. The petitioner submitted a letter dated 01.07.2024 requesting for time. However, the impugned order dated 22.07.2024 came to be passed on the premise that the petitioner had not submitted any documentary evidence.

4. It may be relevant to note that subsequent to the impugned order, yet another order dated 29.08.2024 for the very same period has been issued wherein the demands are raised in respect of the very same issues. In other words, there is duplication of assessment. In view thereof, the order dated 29.08.2024 is liable to be set aside. Now coming to the order dated 22.07.2024, it is submitted by the learned counsel for the petitioner that more than 40% of the disputed taxes has already been remitted.

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,*** to submit that this court has remanded the matter back in similar circumstances subject to payment of 25% of the disputed taxes.

6. It was further submitted that the petitioner has already paid more than 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, to which the learned Government Advocate appearing for the first respondent does not have any serious objection, subject to verification if the petitioner had made the payment of 40% of the disputed taxes as stated.

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

a) The impugned orders dated 29.08.2024 and 22.07.2024 are set aside.

b) The petitioner shall deposit 25% 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 25% of disputed taxes directed to be paid. The assessing authority shall then intimate the balance amount out of 25 % 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 25% 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 25% 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 25 % 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 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., 25% 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.

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

08.01.2025

Index:Yes / No
Non-speaking order / speaking order
Neutral Citation : Yes/ No

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To

1. The State Tax Officer
   Ramapuram Assessment Circle
   46, 2nd Floor, Mylapore Taluk Office Building
   Greenways Road, Chennai-600 028.

MOHAMMED SHAFFIQ. J.,

mk

W.P.Nos.399 & 402 of 2025

08.01.2025