IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2025

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.1193 of 2025
and
WMP.Nos.1429 & 1430 of 2025

M/s.Ramadoss Sampath
Rep.by its Proprietor Mr.R.Sampath
Chelliamman Koil Street,
Arungunam, Madurantakam,
Chengalpattu, Tamil Nadu – 603 306. ... Petitioner

Vs.

The Assistant Commissioner,
Maduranthakam Assessment Circle,
Chengalpattu Zone, No.15/9, Car Street,
Madhuranthagam – 603 306. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari to call for the records of the respondent in order dated 30.04.2024 in GSTN 33AYFPS4322L1ZA/2018-19 and quash the same as illegal, arbitrary and in violation of principle of natural justice.

For Petitioner ... Ms.C.Rekhakumari

For Respondent ... Mr.Prashanth Kiran
Government Advocate

ORDER

The present Writ Petition is filed challenging the impugned order passed by the respondent on 30.04.2024 relating to the assessment year 2018-19.

2.The petitioner is a civil works contractor for the Government department, carrying out works contracts such as laying of road, drainage etc.,. The petitioner is registered under Goods and Services Act, 2017. During the relevant period, the petitioner had filed its return and paid appropriate taxes. However, on examination of the information furnished in the return under various heads and also the information furnished in GSTR-01, GSTR-2A, GSTR-3B and other records, it was noticed that there was a mismatch and under declaration of out put tax inasmuch as there was a mismatch between GSTR 3B and GSTR 9 and the petitioner was also found to have claimed excess input tax credit.

3. It is submitted by the learned counsel for the petitioner that a notice in DRC-01 with SCN was issued on 28.12.2023 and reminders on 07.03.2024, 05.04.2024 and 08.04.2024. Further, a personal hearing notice was issued on 29.04.2024. The petitioner filed its reply on 12.04.2024 stating that earlier

proceedings for the very same assessment year 2018 – 19 had been dropped. However, the impugned order came to be passed on the premise that the petitioner's reply is not acceptable.

4.The learned counsel for the petitioner would further submit that the credit as well as the electronic credit ledger as well as cash ledger have been blocked and that 25% of the disputed taxes may be appropriated and the respondent unblock the electronic credit ledger and cash ledger.

5.The learned counsel for the respondent would submit that the issues in the earlier assessment orders were different from the issues raised in the present assessment order inasmuch as in the proceedings dated 04.11.2023, the issue was mismatch between GSTR-7 & GSTR-3B, which was dropped, pursuant to the explanation offered by the petitioner. While in the proceedings dated 15.11.2023, the issue relates to availment of block credit erroneously which was again dropped, on examination of the explanation offered by the petitioner. However, the issue that is raised in the present order is different from the subject matter of the earlier order of assessment and thus, the respondent authority was right in rejecting the reply filed by the petitioner.

6.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.

7. It was further submitted that the petitioner is ready and willing to pay 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 respondent does not have any serious objection.

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

a) The impugned order dated 30.04.2024 is 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

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.

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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.

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

Speaking (or) Non Speaking Order
Index : Yes/ No **21.01.2025**
Neutral Citation: Yes/No
sms
To

The Assistant Commissioner,
Maduranthakam Assessment Circle,

MOHAMMED SHAFFIQ, J.

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