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.873 of 2025 and
W.M.P.Nos.1046 & 1049 of 2025

Tvl S. GOPI WORKS CONTRACT,
CONTRACTOR (GSTIN:33CHDPG4039H1ZO)
REPRESENTED BY ITS PROPRIETOR Tvl.SUBRAMANI GOPI,
No. 160, PILLAIYAR KOIL STREET,
NARASINGARAYANPETTAI,
GINGEE TALUK,
VILLUPURAM DISTRICT,
TAMIL NADU 604 202. ....Petitioner

Versus

1. THE COMMERCIAL TAX OFFICER/THE STATE TAX OFFICER
(INTELLIGENCE), INSPECTION-V,
CUDDALORE DIVISION,
NO.1, VALLALAR NAGAR,
MANJAKUPPAM, CUDDALORE-607 001.

2. THE JOINT COMMISSIONER,
O/o. THE JOINT COMMISSIONER (ST) (INTELLIGENCE),
CUDDALORE DIVISION,
NO.1, VALLALAR NAGAR,
MANJAKUPPAM,
CUDDALORE 607 001.

3. THE DEPUTY STATE TAX OFFICER (RECOVERY),
OFFICE OF THE DEPUTY COMMISSIONER (ST),
INTEGRATED COMMERCIAL TAXES BUILDING,
INTEGRATED MASTER PLAN COMPLEX,
VILLUPURAM 605 602. .... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorari, to call for the records in the order passed by the 1st Respondent in the 33CHDPG4039H1ZO/2020-2021 dated 26.08.2024 and the 3rd Respondents Recovery Intimation Notice vide Reference No. GSTIN: 33CHDPG4039H1ZO/2020-2021 to 2023-2024 dated 06.12.2024 and to quash the same respectively as arbitrary and illegal .

For Petitioner	:	Mr.R.Prakalathan
For Respondents	:	Mr.C.Harsha Raj Additional Government Pleader

ORDER

The present Writ Petition is filed challenging the impugned order dated 26.08.2024 passed by the first respondent and the consequential recovery intimation notice dated 06.12.2024 issued by the third respondent.

2. The petitioner is a registered Government Works Contractor and engaged in the business of Supply of Service of Composite Works Contract to various

Government Agencies including Block Development Office, Gingee & Melmalaiyanur, District Rural Development Agency, Villupuram, Division Engineer, Highways and Rural Works Department, Villupuram and is registered under the Goods and Service Tax Act, 2017. Pursuant to the authorisation issued by the Joint Commissioner (ST)(Intelligence), Cuddalore Division, Cuddalore, the petitioner's registered place was inspected. During the course of such inspection, it was found that there was mismatch between GSTR3B and GSTR2A.

3. Subsequently, an intimation notice in Form DRC-01A was issued to the petitioner on 11.01.2024, followed by a show cause notice in Form DRC-01 dated 26.02.2024 was issued to the petitioner through common portal. Thereafter, a personal hearing opportunity was also granted to the petitioner. However, the petitioner had neither filed its reply nor availed an opportunity of personal hearing. Hence, the impugned order came to be passed, confirming the proposals.

4. 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 tax demand.

5. 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 Additional Government Pleader appearing for the respondents does not have any serious objection.

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

a) The orders impugned herein are 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 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 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.

7. 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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