IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2025

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THE HON'BLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.622 of 2025
and W.M.P. Nos.758 and 759 of 2025

M/s.Matheson Bosanquet Enterprises Private Limited
Post Box No.1, Spring Field Post
Coonoor 643 104
Represented by its Authorised Signatory
Mr.Benjamin Thangaraj ... Petitioner

Vs.

The Deputy Tax Officer - 1 (ST)
Coonoor Assessment Circle
Uthagamandalam
Tamil Nadu ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent in the demand order passed in GSTIN-33AABCM9747J1Z5/2019-2020 dated 06.08.2024 and the consequential DRC-07 order in Reference No:ZD3308240458439 dated 06.08.2024, quash the same, further direct the respondent to reassess the above orders.

For Petitioner	:	M/s.G.Dhanamadhri for Agam Legal
For Respondent	:	Mr.C.Harsha Raj Additional Government Pleader

ORDER

The present writ petition is filed challenging the impugned order passed by the respondent dated 06.08.2024 relating to the assessment year 2019-2020, on the ground that there is violation of principles of natural justice.

2. The learned counsel for the petitioner submitted that the petitioner is a registered company under the erstwhile Tamil Nadu Value Added Tax, 2007 and migrated into the Goods and Services Tax regime. During the relevant period viz. 2019-2020, the petitioner had filed its returns and paid the appropriate taxes. However, on the basis of return mismatch data verified from the department website, the following discrepancies were noticed:

a) Excess claim of Input Tax Credit;

b) The under declaration of ineligible Input Tax Credit; and

c) Input Tax Credit claimed from cancelled dealers, return defaulters & tax non payers.

3.Pursuant thereto, a notice informs DRC-01 dated 23.05.2024 was issued followed by reminders and personal hearing on 24.06.2024, 09.07.2024 and 19.07.2024. However, the petitioner had not filed its reply nor availed of the opportunity of personal hearing.

4. At this juncture, learned counsel for the petitioner also placed 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.

5.It is submitted by the learned counsel for the petitioner that they had preferred an appeal which was not entertained on the premise that it is filed beyond the statutory period stipulated to filing an appeal. It is submitted that they had paid 10% of the disputed taxes while filing the appeal and that the same may be given credit, to which the learned Additional Government Pleader appearing for the respondent does not raise any serious objection.

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

a) The impugned order dated 06.08.2024 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 (4) 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 (1) week from the date of receipt of a copy of this order. The petitioner shall deposit such remaining sum within a period of three (3) 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 (4) 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 (4) 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 (4) 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, the connected miscellaneous petitions are closed.

09.01.2025

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MOHAMMED SHAFFIQ, J.

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To:

The Deputy Tax Officer - 1 (ST)
Coonoor Assessment Circle
Uthagamandalam
Tamil Nadu

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