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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.1298 of 2025
and
W.M.P.Nos.1544, 1547 and 1548 of 2025

Technic Infrastructure Private Limited,
Rep. by its Director,
Mr.Ajay Adhithyan,
No.23A, Vallal Pachaiyappan Street,
Kancheepuram, Tamil Nadu 631 501. ..Petitioner

Vs.

Deputy Commercial Tax Officer,
Kancheepuram, Assessment Circle,
CT Building, 1st Floor, Collectorate Campus,
Kancheepuram, 631 501. .. Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the respondent in order in respondent in Order in Reference No.ZD330824266612B passed under Section 73 of the TNGST Act, 2017 for the financial year 2019-2020 dated 29.08.2024and quash the same as illegal and not in accordance with law and consequently direct the respondent to conduct fresh assessment proceedings after providing a reasonable opportunity of hearing to the petitioner in accordance with law.

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For Petitioner : Ms.V.Anumitha
for Mr.R.Sivaraman

For Respondents : Ms.Amrita Dinakaran
Government Advocate

ORDER

The present writ petition has been filed challenging the impugned order dated 29.08.2024 passed by the respondent in Reference No.ZD330824266612B, on the premise that the same is made in violation of principles of natural justice.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in the business of Construction and Works Contract Services and is registered under the GST Act. During the relevant period of 2019-20, the petitioner has filed the returns and paid appropriate taxes. However, on scrutiny of returns the following discrepancies were noticed:

i) Mismatch between GSTR 3B and GSTR 1.

ii) Mismatch between GSTR 3B and GSTR 2A.

iii) Mismatch between GSTR 8 and GSTR 1.

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iv) Non Generation of E way Bill.

3. It is submitted by the learned counsel for the petitioner that a notice in Form DRC 01 A was issued to the petitioner on 24.06.2024, followed by a notice in DRC 01 dated 07.05.2024. Thereafter, personal hearing notice dated 10.06.2024 was also issued to the petitioner. In response to the show cause notice, the petitioner filed its reply dated 29.06.2024. However, it was found that the tax payer reply dated 29.06.2024 was not supported by relevant documents in support of the explanation of the discrepancy, thus the impugned order was passed confirming the proposal. It is submitted by the learned counsel for the petitioner that if the petitioner is provided with an opportunity, he would be able to explain the alleged discrepancy.

4. The learned counsel for the petitioner would then 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

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similar circumstances subject to payment of 25% of the disputed taxes.

5. It was further submitted that the petitioner is ready and willing to pay 25% 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.

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

a) The impugned order dated 29.08.2024 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 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

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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 of 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

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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.

21.01.2025

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

Deputy Commercial Tax Officer,
Kancheepuram, Assessment Circle,
CT Building, 1st Floor, Collectorate Campus,
Kancheepuram, 631 501.

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MOHAMMED SHAFFIQ, J.

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