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.721 of 2025 and
W.M.P.Nos.875 & 877 of 2025

TVL. MG RESIDENCY PRIVATE LIMITED,
NOW KNOWN AS AGS HILL RESIDENCY PRIVATE LIMITED,
REPRESENTED BY ITS DIRECTOR: MR A.GNANASEKAR,
NO.S.F.NO.31/3B, NEW S.F.NO.31/3B,31/4A8A,
ATHANAYUR VILLAGE,
TIRUPATTUR TALUK, VELLORE,
TAMIL NADU 635 853. ....Petitioner

Versus

COMMERCIAL TAX OFFICER,
JURISDICTION: THIRUPPATTUR,
THIRUPATTUR: VELLORE: TAMIL NADU,
THIRUPATTUR, TAMIL NADU. .... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorari, call for the records on the file of the Respondent passed in Order u/s 74 in GSTIN 33AAGCM9677A1ZE and Form GST DRC 07 both having Reference No.ZD330424215098M and dated 26.04.2024 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

TNGST/CGST Acts, and in violation of principles of natural justice and fair play.

For Petitioner	:	Mr.T.Pramod Kumar Chopda Senior Advocate for Mr.T.C.Gopalakrishnan
For Respondent	:	Mr.C.Harsha Raj Additional Government Pleader

ORDER

The present Writ Petition is filed challenging the impugned order dated 26.04.2024 passed by the respondent relating to the financial year 2019-20.

2. It is submitted by the learned counsel for the petitioner that the petitioner is a registered dealer under Central/State/Integrated Goods and Services Tax Act, 2017 and carrying on boarding and lodging business. During the relevant period 2019-20, the petitioner had filed its returns and paid the appropriate taxes. He would further submit that the respondent has not issued any detailed Notice in Form DRC-01 or intimation to DRC-01A to the petitioner and only the summary to Form DRC-07 was issued to the petitioner. It was thus submitted that the impugned proceedings stands vitiated.

3. 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 similar circumstances subject to payment of 25% of the disputed taxes. It was further submitted that the petitioner had already remitted the 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, which was not objected to by the learned Additional Government Pleader for the respondent.

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

a) The impugned order dated 26.04.2024 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 weeks from the date of receipt of a copy of this order.

c) It is open to the petitioner to produce material to show that the 25% of the disputed tax amount is paid. 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.

5. 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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To
COMMERCIAL TAX OFFICER,
JURISDICTION: THIRUPPATTUR,
THIRUPATTUR: VELLORE: TAMIL NADU,
THIRUPATTUR, TAMIL NADU.

W.P.No.721 of 2025

10.01.2025