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.704 of 2025
and
WMP Nos.856 and 857 of 2024

Tvl.SS Textile Mills Private Limted,
Represented by its Managing Director, Mr.S.Sangeeth ... Petitioner

Versus

The Assistant Commissioner (ST)
Park Road Assessment Circle,
Erode, Tamil Nadu ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking for a Writ of Certiorari, calling for the records on the file of the respondent in its impugned proceedings for the Assessment year 2023-24 in GSTIN :33AAMCS3384C1ZE/2023-2024 dated 21.06.2024 and the consequential DRC-07 order bearing Ref No:ZD330624204510Z dated 21.06.2024 and quash the same.

For Petitioner : Ms.R.Hemalatha

For Respondent :Ms.Amrita Dinakaran
Government Advocate

ORDER

The present Writ Petition is filed challenging the impugned order passed by the respondent dated 21.06.2024 relating to the assessment year 2023-24.

2. The petitioner is a registered dealer under Goods and Services Act, 2017. During the relevant period, the petitioner had filed its return and paid appropriate taxes. However, on verification of monthly returns in Form GSTR-1, GSTR-3B and Form GSTR-2A filed by the taxpayer, it was noticed that the petitioner had claimed excess refund of input tax credit accumulated due to inverted tax structure.

2.1. Pursuant thereto, a notice in Form DRC 01A was issued to the petitioner on 14.03.2024, followed by a show cause notice in DRC 01 on 12.04.2024. Further personal hearing was offered on 29.04.2024, 06.05.2024 and 18.06.2024. The petitioner had filed its reply on 25.05.2024, however the same was rejected and the impugned order came to be passed, confirming the proposal.

3. 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*** It is further submitted by the learned counsel for the petitioner that more than 25% of the disputed taxes has already been debited in the electronic credit ledger and they may be granted an opportunity before the adjudicating authority to put forth their objections to the proposal.

4. Taking into account the peculiar facts of the case, wherein, the petitioner has already remitted more than 25% of the disputed taxes, this Court is of the view that the petitioner may be granted one final opportunity to put forth his objections, which was not objected to by the learned Government Advocate for the respondent, while seeking liberty to verify the correctness of the statement relating to remittance made by the petitioner.

5. Since, the above order is made on the basis of the statement made by the learned counsel for the petitioner that more than 25% of the disputed taxes has been remitted already, the respondent may verify the same. If the statement made by the learned counsel for the petitioner regarding the payment of more than 25% of the disputed taxes is incorrect, the respondent authority shall intimate the same

to the petitioner within a week from the date of receipt of a copy of this order, who shall within 2 weeks from the date of such intimation deposit 25% of disputed taxes. Subject to verification of payment of 25% of disputed taxes or on payment of 25% of disputed taxes, attachments if any, would be lifted.

6. In view thereof, the impugned order is set aside. The petitioner shall treat the impugned order of assessment as show cause notice and 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 the petitioner a reasonable opportunity of hearing. It is made clear that if the condition in paragraph 6 of this order, relating to payment of 25% of disputed taxes is not complied with in terms thereof or if the objections are not filed within the stipulated period i.e. four weeks respectively from the date of receipt of a copy of this order, the impugned order of assessment shall stand restored.

7. Accordingly, the writ petition stands disposed of. No costs.

Consequently, connected miscellaneous petitions are closed.

10.01.2024

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

To
The Assistant Commissioner (ST)
Park Road Assessment Circle,
Erode, Tamil Nadu

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MOHAMMED SHAFFIQ, J.

mrn

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