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W.P. No.1474 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2025

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.1474 of 2025

and

W.M.P.Nos.1721 and 1722 of 2025

R.Balaji

.. Petitioner

Vs.

1. Deputy Commissioner,
Office of the Deputy Commissioner of
CGST and Central Excise,
Mylapore Division, Chennai North,
7th Floor, Annex Building,
No.26/1, M.G.Road, Nungambakkam,
Chennai 600 034.
2. Assistant Commissioner,
Office of the Assistant Commissioner of
GST and Central Excise,
Chennai North Commissionerate,
Purasaiwakkam Division,
No.2054, Newry Towers, 12th Main Road,
Anna Nagar, Chennai 600 040.
3. Superintendent of CGST and Central Excise,
Range I, Purasaiwakkam Division,
Office of the Superintendent of Central Gst
and Central Excise,



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Purasaiwakkam - I Division,
Chennai North Commissionerate,
No.2054, Newry Towers, 12th Main Road,
Anna Nagar, Chennai 600 040.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the impugned order of the first respondent passed in Order in Original No.38/2023-ST-PWKM dated 12.06.2023 and quash the same.

For Petitioner : Mr.N.Murali

For Respondents : Mr.T.Ramesh Kutty
Senior Panel Counsel assisted by
Mr.B.Sivaraman,
Junior Standing Counsel

ORDER

The present writ petition is filed challenging the impugned order dated 12.06.2023, primarily on the ground that the impugned order was not served on the petitioner in the manner contemplated under Finance Act, 1994 and thus non est in law.

2. To the contrary it is submitted by the learned counsel for the respondent that whether valid or proper service is essentially a question of fact.



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3. At this stage the learned counsel for the petitioner would seek liberty of this Court to file an appeal, to which the learned counsel for the respondent would submit that the petitioner may be put on terms to file an appeal.

4. This Court suggested that the petitioner may deposit 25% of the disputed taxes in order to file an appeal, which was agreed to by both agreed to by both the learned counsel for the petitioner as well as for the respondents.

5. In view thereof, the petitioner is granted liberty to file an appeal within a period of 4 weeks from the date of receipt of a copy of this order. The petitioner shall make the deposit of 25% of the disputed taxes within a period of 3 weeks from the date of receipt of a copy of this order. If any appeal is filed subject to complying with above condition i.e., payment of 25% of the disputed taxes, the same shall be entertained without reference to limitation and orders would be passed in accordance with law after affording the petitioner a reasonable opportunity of hearing. It is also open to the petitioner to raise the question of non



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service of the order which will be taken up and decided as a preliminary issue.

6. Registry is directed to return the original order after obtaining the photocopy of the order to enable the petitioner to file appeal.

7. Accordingly, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

27.01.2025

Speaking (or) Non Speaking Order

Index: Yes/No

Neutral Citation: Yes/No

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MOHAMMED SHAFFIQ, J.

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