IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2025

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.Nos.841 & 853 of 2025 and
W.M.P.Nos.1017 & 1018 of 2025

Tvl.R T C Express,
No 2, No 14A Ground Floor Rams Square,
Village Road, Nungambakkam,
Chennai,
Tamil Nadu 600034.

...Petitioner in both W.P's

Vs.

1. Deputy State Tax Officer-II,
Valluvarkottam Assessment Circle,
Chennai 600 034.
2. Assistant Commissioner (ST),
Valluvarkottam Assessment Circle,
6th floor PAPJM Annexure Building,
Greams Road, Chennai 600006.

...Respondents 1 & 2 in both W.P's

3. IndusInd Bank Limited,
No.3, Village Road,
Nungambakkam Branch, Chennai.

.... Respondent No.3 in W.P.No.853 of 2025

PRAYER in W.P.No.841 of 2025: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorari, call for the records of the 1st Respondent herein in Impugned order passed in GSTIN.33APSPV6140F2ZK/2018-19 dated 26.04.2024 in Ref.No. ZD3304242170520 issued by the 1st Respondent and consequential order passed in GSTIN:33APSPV6140F2ZK/2018-19 dated 29.04.2024 in Ref.No. ZD330424238723I issued by the 1st Respondent for the F.Y. 2018-19 and quash the same.

Prayer in W.P.No.853 of 2025: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Mandamus, directing the 1st Respondent to release the attachment on the bank accounts of the Petitioner held with 3rd Respondent Banks.

Appearance of counsel in both W.P's

For Petitioner	: Ms.G.Vardini Karthik
For R1 & R2	: Mr.V.Prashanth Kiran Government Advocate

COMMON ORDER

These Writ Petitions are filed challenging the impugned orders dated 26.04.2024 and 29.04.2024 passed by the first respondent relating to the assessment year 2018-19 and also to direct the first respondent to release the attachment on the Bank accounts of the petitioner held with 3rd respondent Bank.

2. Mr.V.Prashanth Kiran, learned Government Advocate takes notice on behalf of the respondents 1 & 2. By consent of the parties, the main Writ Petition is taken up for disposal at the admission stage.

3. The petitioner is a company engaged in the business of Transportation and Logistics and is registered under the Goods and Service Tax Act, 2017. During the relevant period 2018-2019, the petitioner had filed its return and paid appropriate taxes. While so, on examination of the information furnished in the return filed by the petitioner under various heads and also the information furnished in GSTR-01, GSTR-2A, GSTR-3B, and other records, the following discrepancies were noticed:

(i) Under declaration of output tax

(ii) Excess claim of ITC

3.1. Subsequently, a notice in Form DRC-01A dated 22.01.2024 followed by a show cause notice in Form DRC-01 dated 30.01.2024 were to be issued to the petitioner through common portal, and thereafter reminder notices were issued to the petitioner on 28.02.2024 and 17.04.2024 respectively. The petitioner responded to the said show cause notice vide replies dated 27.01.2024 and 01.03.2024 and personal hearing opportunity was also granted to the petitioner. However, the petitioner had neither produced any valid documentary evidence nor paid the tax nor availed the opportunity of personal hearing. Hence, the impugned order came to be passed, confirming the proposals.

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 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 the petitioner may be granted one final opportunity before the adjudicating authority to put forth their objections to the proposal. It is also submitted that pursuant to the impugned order, that there is bank attachment and the same may be lifted, to which, the learned Government Advocate appearing for the respondents 1 & 2 does not have any serious objection.

6. By consent of parties, these writ petitions stands disposed of on the following terms:

a) The orders impugned herein are set aside.

b) The petitioner shall deposit 25% of the disputed taxes as admitted by the learned counsel for the petitioner and the respondents 1 & 2, 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 from 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 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 to be paid for compliance of the direction of 25% of the disputed taxes after deducting the sums already paid and payment by the petitioner of the balance amount 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 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 first 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.

10.01.2025

Speaking (or) Non Speaking Order
Neutral Citation: Yes/No
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To
1. Deputy State Tax Officer-II,
Valluvarkottam Assessment Circle,
Chennai 600 034.
2. Assistant Commissioner (ST),
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MOHAMMED SHAFFIQ, J.

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