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W.P.No.2066 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.2066 of 2025

and

W.M.P.Nos.2417 and 2418 of 2025

Kurugondla Sindhu,
Represented by its Proprietrix R.Sindhu,
No.98/164, Portuguese Church Street,
Seven Wells, Chennai 600 001.

... Petitioner

Vs.

1.Assistant Commissioner,
Mannady Assessment Circle
Integrated Commercial Taxes Building (North Division),
Second Floor, Room No.204,
No.32, Elephant Gate Bridge Road
Vepery, Chennai 600 003.

2.Deputy Commissioner (ST)
North Zone II, Integrated
Commercial Taxes Building (North Division),
Second Floor, Room No.204,
No.32, Elephant Gate Bridge Road,
Vepery, Chennai 600 003.

3.State Tax Officer,
Mannady Assessment Circle,
No.32, Elephant Gate Bridge Road
Vepery, Chennai 600 003.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India



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praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order bearing GST No.33ALJPS9703L1ZL/2017-18 along with the Summary Order bearing Reference No:ZD331023049974F dated 10.10.2023 passed by the first respondent and quash the same and subsequently direct the third respondent to lift the bank attachment made vide DRC 13 dated 05.02.2024 and the notice for attachment of immovable property made vide letter Form GST DRC 16 issued by the second respondent dated 24.09.2024 as the same being arbitrary, passed in violation of the principles of natural justice.

For Petitioner : Mr.G.Natarajan

For Respondents : Mr.V.Prashanth Kiran,
Government Advocate.

ORDER

The present writ petition is filed challenging the impugned order passed by the first respondent dated 10.10.2023 relating to the assessment year 2017-18.

2. The petitioner is engaged in the business of providing rental services of immovable property and is registered under the Goods and Services Tax Act, 2017. During the relevant period of 2017-18, the petitioner filed its returns and paid the appropriate taxes. However, on scrutiny of the petitioner's return, it was noticed that there was an alleged mismatch between GSTR-3B



and Form 26AS.

2.1. Pursuant thereto, a notice in ASMT-10 was issued on 03.07.2023, followed by Show Cause Notice in DRC-01 on 04.08.2023. Personal hearing was offered on 10.08.2023. However, the petitioner had neither filed its reply nor availed the opportunity for a personal hearing. Hence, the impugned order came to be passed, confirming the proposal.

3. The impugned order is challenged on the premise that neither the show cause notices nor the impugned order of assessment has been served on the petitioner by tender or sending it by RPAD, instead it had been uploaded in the GST Portal, thereby, the petitioner was unaware of the initiated proceedings and was thus unable to participate in the adjudication proceedings.

4. It is submitted by the learned counsel for the petitioner that if the petitioner is provided with an opportunity, they would be able to explain the alleged discrepancies. 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 subsequent to the passing of the impugned order, the petitioner had remitted more than 75% of the disputed taxes and that they may be granted one final opportunity before the adjudicating authority to put forth their objections to the proposal. It is submitted that there is bank attachment and the same may be lifted to which the learned Government Advocate appearing for the respondents does not have any serious objection.

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

- a) The impugned order dated 10.10.2023 is set aside.
- b) The petitioner shall deposit 25% of the disputed taxes as admitted by the learned counsel for the petitioner and the respondents, 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 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.



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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



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receipt of a copy of this order, the impugned order of assessment shall stand restored.

6. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

27.01.2025

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

To:

1.Assistant Commissioner,
Mannady Assessment Circle
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Second Floor, Room No.204,
No.32, Elephant Gate Bridge Road
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MOHAMMED SHAFFIQ, J.

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