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.1066 of 2025
and
W.M.P. Nos.1313 and 1314 of 2025

M/s.Matheson Bosanquet Enterprises Private Limited,
Post Box No.1, Spring Field Post,
Coonoor-643 104,
Represented by its Authorised Signatory,
Mr.Benjamin Thangaraj ... Petitioner

Vs.

1.Assistant Commissioner (ST),
Coonoor Assessment Circle,
Uthagamandalam, Tamil Nadu.

2.The State Tax Officer,
Coonor Assessment Circle,
Nilgiris, Tamil Nadu.

3.The Deputy Tax Officer – 1(ST),
Coonor Assessment Circle,
Uthagamangalam, Tamil Nadu. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records of the 1st Respondent from proceedings in the demand order passed in GSTIN:33AABCM9747J1Z5/2018-19 dated 27.03.2024 and the consequential DRC-07 order in Reference No:ZD330324193951B dated 28.03.2024 and quash the same.

For Petitioner : M/s.G.Dhanamadhri
for Agam Legal Advocates

For Respondents : Mr.C.Harsha Raj
Additional Government Pleader

ORDER

The present writ petition is filed challenging the impugned order passed by the respondent dated 27.03.2024 relating to the assessment year 2018-19.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in the business of growing and manufacturing tea and is registered under the Goods and Services Tax Act, 2017. During the relevant period 2018-19, the petitioner filed its returns and paid the appropriate taxes. However, on scrutiny of the GSTR-1 and GSTR-3B filed by the tax payer and the auto populated GSTR 2A returns for the year 2018-19, certain discrepancies were noticed i.e., the tax payer has claimed ITC more than what is auto populated in GSTR-2A.

3. It is submitted by the learned counsel for the petitioner that a notice in DRC-01 was issued on 31.03.2022 followed by reminder notices dated 28.10.2023, 24.01.2024 and 06.03.2024. Further, opportunity of personal hearing was offered on 31.03.2022, 01.11.2023, 05.02.2024 and 18.03.2024

respectively. However, the petitioner had neither filed its reply nor availed the opportunity for a personal hearing. 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.

4. 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,*** to submit that this court has remanded the matter back in similar circumstances subject to payment of 25% of the disputed taxes.

5. It is further submitted by the learned counsel for the petitioner that they have already remitted the entire disputed tax and they may be granted an opportunity before the adjudicating authority to put forth their objections to the proposal, to which the learned Additional Government Pleader appearing for the respondent does not have any serious objection.

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

a) The impugned order dated 27.03.2024 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) 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.

7. Further, it is open to the petitioner to treat the impugned order as show cause notice and submit a representation for the matters to be adjudicated by a single officer to ensure that there is uniformity and certainty, such representation may be made before the appropriate authority, who in turn may assign all the

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three assessment proceedings to a single officer. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

10.01.2025

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