IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2025

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.2471 of 2025
and
W.M.P. Nos.2779 and 2780 of 2025

M/s.Admiral Shipping Ltd.,
Rep. by its Branch Manager Mr.K.Purushothaman,
No.28, Hatimi Manzil, Room No.2,
I Floor, Mooker Nallamuthu Street,
Chennai-600 001. ... Petitioner

Vs.

1.The Deputy Commissioner (ST),
GST Appeal, Chennai-I,
Room No.230, C.T.Buildings, 2nd Floor,
Chennai-600 006.

2.The Assistant Commissioner (ST),
Broadway Assessment Circle,
Room No.304, 3rd Floor,
Integrated Commercial Taxes Complex,
No.32, Elephant Gate Bridge Road,
Vepery, Chennai-600 003.

3.The Deputy State Tax Officer,
Broadway Assessment Circle,
Room No.304, 3rd Floor,
Integrated Commercial Taxes Complex,
No.32, Elephant Gate Bridge Road,
Vepery, Chennai-600 003. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records in the order passed by the 3rd Respondent in GSTIN/33AAACA6759K1ZI/2017-18 dated 23.12.2023, summary of the order in DRC-07 in Ref.No.ZD331223188502M dated 23.12.2023, the rectification application rejection order dated 22.03.2024 issued by the 3rd Respondent in Ref.No.ZD3303241478767 and the detailed order in GSTIN/33AAACA6759K1ZI/2017-18 dated 22.03.2024 and the records of the 1st Respondent in FORM-GST-APL-2 dated 15.10.2024 in Ref.No.ZD331024098520P in which the appeal filed by the petitioner was rejected, quash the same as arbitrary and illegal and direct the 1st Respondent to entertain the appeal and dispose of it on merits and in accordance with law.

For Petitioner : Mr.Joseph Prabakar

For Respondents : Mr.G.Nanmaran
Special Government Pleader

ORDER

The present writ petition is filed challenging the impugned order dated 23.12.2023 relating to the assessment year 2017-18.

2. It is submitted by the learned counsel for the petitioner that the petitioner is registered under the Goods and Services Tax Act, 2017. During the relevant period 2017-18, the petitioner filed its returns and paid the appropriate taxes. However, during the scrutiny of the petitioner's monthly return, it was

found that there was a mismatch between GSTR 2A and GSTR 3B.

3. Pursuant thereto, an intimation in ASMT-10 was issued on 08.05.2023, and another intimation in ASMT-11 was issued on 02.06.2023 followed by a notice in DRC-01 on 09.09.2023. Further, remainder notice was issued on 12.10.2023 and 11.11.2023. Thereafter, the impugned order came to be passed confirming the proposal. Subsequently, a rectification petition was filed and the same was rejected vide proceedings dated 22.03.2024. Against which an appeal was preferred on 08.06.2024. 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 was further submitted that the petitioner is ready and willing to pay 25% of the disputed tax and that they may be granted one final opportunity before the adjudicating authority to put forth their objections to the proposal. It is further submitted that subsequent to the passing of the impugned order, an appeal was also preferred and payment of 10% of disputed tax was made as pre-deposit, however the appeal was rejected on the premise that the same is filed beyond the time stipulated for filing an appeal under the Act. It is requested by the learned counsel for the petitioner that the same may be adjusted towards 25% of the disputed tax, to which the learned Special 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 23.12.2023 is set aside.

b) The petitioner shall deposit 25% of the disputed taxes as admitted by the learned counsel for the petitioner and the 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. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

29.01.2025

Speaking (or) Non Speaking Order
Index : Yes/ No
Neutral Citation: Yes/No
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MOHAMMED SHAFFIQ, J.

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