

W.P.No.2159 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 28.01.2025

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.2159 of 2025

and

W.M.P.Nos.2512 & 2513 of 2025

Mrs.Revathy,
19/5, Rams Flat, Raja Street, Pondy Bazaar,
T.Nagar, Chennai 600017.
Now at 2nd Floor, Flat B 25/14, Park Centre,
Venkata Narayana Road, Chennai 600 017.

... Petitioner

Vs.

1. The Deputy State Tax Officer - II (State Taxes),
T.Nagar Assessment Circle,
No.46 Greenways Road, Chennai 600 028.
2. The Deputy Commissioner (ST),
GST Appeal Chennai- I,
PAPJM Building, Chennai 600 006.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the impugned order u/s.73 dated 30/12/2023 having Reference No.ZD331223270955C for the tax period from July 2017 to March 2018 passed by the 1st Respondent and quash the same.



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For Petitioner
For respondents

: Mr.S.Anandh
: Mr.C.Harsha Raj
Additional Government Pleader

ORDER

The present writ petition is filed challenging the impugned order dated 30.12.2023 passed by the first respondent relating to the tax period July 2017-March 2018.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in the business of providing advertisement services including advertising in newspapers, journals, film and other media and Electronic scroller display advertising and is registered under the Goods and Services Tax Act, 2017. During the relevant period viz., July 2017-March 2018, the petitioner had filed its returns and paid appropriate taxes. However, on verification of the returns filed by the petitioner, it was found that there was mismatch between GSTR-3B and GSTR-2A.

3. It is submitted by the learned counsel for the petitioner that an intimation notice in Form DRC-01A dated 29.08.2023, followed by a show

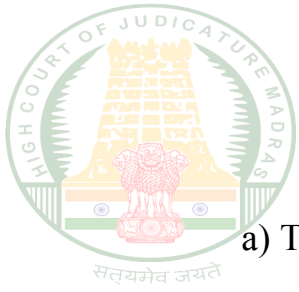


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cause notice in Form DRC-01 dated 30.09.2023 were issued to the petitioner through common portal. The petitioner had submitted its reply to the said show cause notice on 13.10.2023. However, the same was rejected on the premise that the petitioner has not filed supporting documents for the alleged mismatch between GSTR-3B and GSTR-2A. Thus, the impugned order came to be passed by the first respondent, confirming the proposals. 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*. It was further submitted that the petitioner is ready and willing to pay 25% of the disputed tax and that he may be granted one final opportunity before the adjudicating authority to put forth their objections to the proposal, to which the learned Additional Government Pleader appearing for the respondents does not have any serious objection.

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



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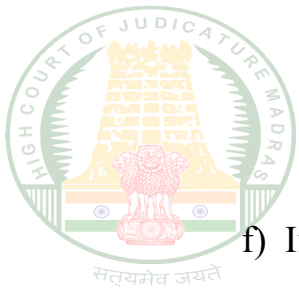
a) The impugned order dated 30.12.2023 is set aside.

b) The petitioner shall deposit 25% of the disputed taxes as admitted by the learned counsel for the petitioner and the 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.

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.



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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.

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

28.01.2025

Speaking (or) Non Speaking Order

Index : Yes/ No

Neutral Citation: Yes/No

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To

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2. The Deputy Commissioner (ST),

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MOHAMMED SHAFFIQ, J.

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