IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2025

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.1879 of 2025
and
WMP Nos.2150 and 2152 of 2025

M/s.New Columbu Stores
Rep.by its Proprietor
Sri.S.Velkumar
No.64, Salem Main Road,
Bommidi,
Dharmapuri District-635 301. ... Petitioner

Vs.

The State Tax Officer
Harur. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking for a Writ of Certiorari call for the records of the respondent in GSTIN: 33ANKPV7331A1Z4/2017-18 and quash the proceeding dated 27/06/2024 passed therein.

For Petitioner ... Mr.Raveendran B

For Respondent ... Mr.TNC Kavshik
Additional Government Pleader

ORDER

The present Writ Petition is filed challenging the impugned order passed by the respondent dated 27.06.2024 relating to the assessment year 2017-18.

2. The petitioner is engaged in the business of grocery items. The petitioner is a registered dealer under Tamil Nadu Goods and Service Tax Act, 2017. During the relevant period, the petitioner had filed its return and paid appropriate taxes. However, on scrutiny of returns, it was noticed that there was a mismatch between GSTR 3B and GSTR 2A.

2.1. Pursuant thereto, a notice was issued in DRC 01A to the petitioner on 03.05.2023 followed by a notice was issued in DRC 01 on 23.09.2023 and personal hearings were offered to the petitioner on 13.10.2023, 28.02.2024 and 18.06.2024. The petitioner filed its response requesting the respondent to grant 60 days time for submitting its reply vide letter dated 02.05.2024. However, the impugned order has been passed after 30 days. 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.

3.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.

4. 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, to which the learned Additional Government Pleader appearing for the respondent 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 27.06.2024 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.

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

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

27.01.2025

To

The State Tax Officer
Harur.

MOHAMMED SHAFFIQ, J.

sms

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