

W.P.No.2460 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 28.01.2025

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.2460 of 2025

and

W.M.P.Nos.2771 & 2772 of 2025

M/s.G.Shanmugham Traders,
Represented by its Partner, S.Punithan,
Armenian Street,
George Town, Parrys,
Chennai 600 001.

... Petitioner

Vs.

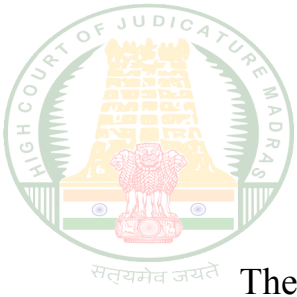
The Assistant Commissioner,
Harbour Assessment Circle,
Integrated Commercial Taxes,
Office Complex,
Room No.327, Elephant Gate Bridge Road,
Chennai 600 003.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records pertaining to the Impugned order dated 21.08.2024 passed by the Respondent against the petitioner's firm vide GSTIN-33AAFFG7120E1ZX, for the Assessment year 2019-2020 and Quash the same as illegal, arbitrary and against the principles of natural justice.

For Petitioner
For respondent

: Mr.K.M.Malarmannan
: Mrs.K.Vasanthamala
Government Advocate



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ORDER

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The present writ petition is filed challenging the impugned order dated 21.08.2024 passed by the respondent relating to the assessment year 2019-20.

2. It is submitted by the learned counsel for the petitioner that the petitioner is a trader in hardwares like plastic & iron materials etc., and is registered under the Goods and Services Tax Act, 2017. During the relevant period 2019-20, the petitioner had filed its returns and paid the appropriate taxes. However, on scrutiny of the returns filed by the petitioner, it was noticed that there was a mismatch between GSTR-1 and GSTR-3B.

3. It is submitted by the learned counsel for the petitioner that, a notice in Form ASMT-10 dated 10.06.2022 was issued to the petitioner, for which, the petitioner had filed its reply in Form ASMT-11 on 22.09.2022. Pursuant thereto, a show cause notice in Form DRC-01 dated 29.11.2023 was issued to the petitioner through GST common portal. The petitioner had submitted its reply to the said show cause notice in Form DRC-06 on 19.12.2023, 30.01.2024 & 18.06.2024. However, the replies filed by the petitioner was rejected on the premise that it was not supported by the material evidence. Thus, the impugned order came to be passed by the respondent, confirming the proposals. It is



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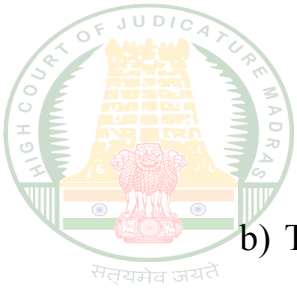
submitted by the learned counsel for the petitioner that if the petitioner is provided with an opportunity, they would be able to explain the alleged discrepancies.

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, which was not objected to by the learned Government Advocate for the respondent.

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

a) The impugned order dated 21.08.2024 is set aside.



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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.

f) If there is any recovery by way of attachment of Bank account or



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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.

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Speaking (or) Non Speaking Order

Index : Yes/ No

Neutral Citation: Yes/No

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MOHAMMED SHAFFIQ, J.

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To
The Assistant Commissioner,
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