



W.P. No.2708 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.01.2025

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

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and

W.M.P. Nos.3049 and 3050 of 2025

M/s.Annai Food Products Pvt. Ltd.,
Represented by its Managing Director,
Mr.Murugesan,
No.18, Thiruveka Street,
Sozhampedu Road, Thirumullaivoyal,
Chennai-62.

... Petitioner

Vs.

The Assistant Commissioner of GST & Central Excise,
Ponneri Division,
Chennai-Outer Commissionerate,
Mogappair, Chennai-37.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records on the file of the Respondent and to quash the impugned assessment order dated 14.09.2023 bearing No.GEXCOM/ADJN/GST/DCAC/37/2023-TECH-CGST-DIV-PON further bearing DIN No.20230959XL0800817609 passed by the Respondent as arbitrary.

For Petitioner : Mr.J.Ashish

For Respondent : Mr.S.Gurumoorthy
Senior Standing Counsel



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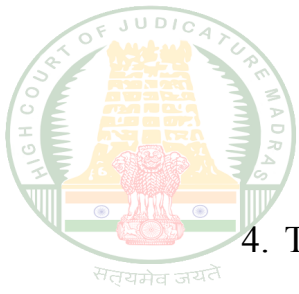
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ORDER

The present writ petition is filed challenging the impugned order dated 14.09.2023 relating to the assessment year 2017-18.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in the business of retailing dates, nuts and other seeds and 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, on scrutiny of returns for the period July 2017 to March 2018, it was found that there was a mismatch between GSTR 3B and GSTR 1.

3. Pursuant thereto, an intimation in ASMT-10 was issued on 18.07.2022, followed by a notice in DRC-01A on 22.11.2022 followed by another notice in DRC-01 dated 25.01.2023. The petitioner filed its reply to the show cause notice on 18.08.2023. Further, petitioner was afforded personal hearing on 02.06.2023. 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.



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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, to which the learned Senior Standing Counsel 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 14.09.2023 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,



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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



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its objections within a period of four (4) weeks from the date of receipt of a copy

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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.

28.01.2025

Speaking (or) Non Speaking Order

Index : Yes/ No

Neutral Citation: Yes/No

mka

To:

The Assistant Commissioner of GST & Central Excise,
Ponneri Division,
Chennai-Outer Commissionerate,
Mogappair, Chennai-37.



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MOHAMMED SHAFFIQ, J.

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