IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :28.01.2025

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.1977 of 2025
and
W.M.P.Nos.2314, 2317 and 2318 of 2025

H.K.Enterprises
Represented by the Proprietor
Mr.Lakshminarayanan Harikrishnan
MIG 166, Housing Board,
Nehru Nagar, Jothi Nagar,
Arakonam, Vellore 631 003. ... Petitioner

Vs.

1.The Commercial Tax Officer /
The Proper Officer / The State Tax Officer,
Arakonam Assessment Circle,
Ward B, Block -25, TS No.22,
Gandhi Road, Arakonam 631 001.

2.The Deputy State Tax Officer – 2 (FAC)/
The Deputy Commercial Tax Officer
Arakonam Assessment Circle,
Ward B, Block -25, TS No.22,
Gandhi Road, Arakonam 631 001.

3.The Branch Manager,
HDFC Bank Ltd.,
No.131-A, Sholinghur High Road,
Arakonam 631 001. ... 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 from the file of first respondent in impugned assessment order of the first respondent in Reference No.ZD3308241383297 and Summary of order in Ref No:AD330523020502R passed in GSTIN No.33ALAPH3495D1ZH dated 16.08.2024 passed for the F.Y.2019-20 and quash the same as barred by limitation, illegal, arbitrary, violation of the principles of natural justice, breach of the Doctrine of Double Jeopardy and characterized by capricious conduct.

For Petitioner : Mr.R.Ananth

For Respondent : Mr.T.N.C.Kaushik,
Additional Government Pleader.

ORDER

The present writ petition is filed challenging the impugned order passed by the first respondent dated 16.08.2024 on the premise that the petitioner had not submitted its reply when, in fact, the petitioner had submitted its reply on 18.10.2023 in response to the notice in DRC-01 dated 13.07.2023. It was thus submitted that the impugned order suffers from non-application of mind to the material on record.

2. The petitioner is a civil works contractor. The petitioner is registered under the Goods and Services Tax Act, 2017. During the relevant period of 2019-20, the petitioner filed its returns and paid the appropriate taxes.

However, on scrutiny of the petitioner's return, the following discrepancies were noticed viz.,

i. Mismatch between GSTR-3B and GSTR-2A

ii. Suppression of Inward Supply

2.1. Pursuant thereto, a notice in ASMT-10 was issued on 15.06.2022, followed by notice in DRC-01A on 12.05.2023 and DRC-01 on 13.07.2023. Personal hearings were offered on 05.10.2023, 11.10.2023 and 16.10.2023. In response to the Show Cause Notice, the petitioner had filed its reply on 18.10.2023 wherein it was submitted that the Input Tax Credit claimed by the petitioner was in fact correct and that the discrepancies are only due to the reversal of excess Input Tax Credit. However, the impugned order proceeds on the premise that the petitioner had not filed any objection nor attended the personal hearing which, according to the petitioner, suffers from non-application of mind.

3. The learned counsel for the respondents would submit that they would redo the assessment after affording the petitioner a reasonable opportunity of hearing.

4. In view thereof, the impugned order dated 16.08.2024 is set aside. The petitioner, in addition to the reply already filed, may submit its objections

within a period of two weeks from the date of receipt of a copy of this order. If any representation / reply is filed within the stipulated period as stated supra, the same shall be considered by the respondents and orders shall be passed in accordance with law, after affording the petitioner a reasonable opportunity of hearing. However, if no such material is filed within the stipulated period as stated supra, the impugned order stands restored. It is submitted that subsequent to the passing of the impugned order, there is bank attachment. In view of the order passed herein, the bank attachment shall be lifted forthwith.

5. Accordingly, the writ petition stands disposed of. 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
shk

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MOHAMMED SHAFFIQ, J.

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(2/2)