IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.01.2025

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.2437 of 2025
and
W.M.P.Nos.2744 & 2747 of 2025

G.R.F Power Battery House,
Rep., by its Proprietor,
R.Niyazudin,
32-A, Lakshmanarao Street,
Krishnagiri 636 006. ... Petitioner

Vs.

The Assistant Commissioner (ST),
Krishnagiri I Circle,
No.559-5-Kallukkurukkl Village,
Saamanthamalal Post,
Collector Office Backside, Krishnagiri 635 115. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the impugned order of the Respondent passed in GSTIN:33ANHPN7737M1ZG/2017-2018 dated 14.12.2023 and quash the same.

For Petitioner : Mr.Suryaa R

For Respondent : Mrs.K.Vasanthamala
Government Advocate

ORDER

The present writ petition is filed challenging the impugned order dated 14.12.2023 passed by the respondent relating to the assessment year 2017-2018.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in the business of waste and scrap of primary cells etc., and is registered under the Goods and Services Tax Act, 2017. During the relevant period 2017-2018, the petitioner had filed its returns and paid the appropriate taxes. On scrutiny of the monthly returns filed by the petitioner, it was noticed that there was mismatch between GSTR-3B and GSTR-1.

3. The learned counsel for the petitioner submitted that, an intimation notice in Form DRC-01A was issued to the petitioner on 22.08.2023, followed by a show cause notice in Form DRC-01 on 03.10.2023 through common portal. It is also submitted that subsequent to the issuance of said notices, the petitioner has paid the entire disputed taxes. However, no reply was filed by the petitioner and hence, the impugned order came to be passed by the respondent, confirming the proposals. It is further 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. It is also submitted by the learned counsel for the petitioner that neither the show cause notices nor the impugned order of assessment has been served on the petitioner by tender or sending it by RPAD, instead it had been uploaded in the GST Portal, thereby, the petitioner was unaware of the initiated proceedings and was thus unable to participate in the adjudication proceedings.

5. The learned counsel for the petitioner would then 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.

6. Taking into account the peculiar facts of the case, wherein, the petitioner has already remitted the entire disputed taxes, this Court is of the view that the petitioner may be granted one final opportunity to put forth his objections, which was not objected to by the learned Government Advocate for the respondent.

7. In view thereof, the impugned order, dated 14.12.2023 is set aside. The impugned order shall be treated as a show cause notice and the petitioner shall filed their objections within a period of two (2) weeks from the date of receipt of a copy of this order. If any such objections are filed within the stipulated period, the respondent shall consider the same and pass appropriate orders in accordance with law after affording the petitioner a reasonable opportunity of hearing. If objections are not filed within the stipulated period, i.e., two weeks from the date of receipt of a copy of this order, the impugned order of assessment shall stand restored.

8. 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
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To
The Assistant Commissioner (ST),
Krishnagiri I Circle,
No.559-5-Kallukkurukkl Village,
Saamanthamalal Post, Collector Office Backside,
Krishnagiri 635 115.

MOHAMMED SHAFFIQ, J.

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