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W.P. No.2766 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2025

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.2766 of 2025

and

W.M.P. Nos.3097 and 3099 of 2025

Tvl.Bharathi Medicals,
Rep. By its proprietrix Elisapath Rani Udayakumar,
GSTIN:33AADPE7087Q1Z9
26, Kasim Sahib Kollai Street,
Kallakurichi, Viluppuram,
Tamil Nadu-606 202.

... Petitioner

Vs.

Commercial Tax Officer/ State Tax Officer,
Kallakurichi Circle,
State Tax Buildings,
Ground and Second Floor,
No.27/2K, Raja Nagar, Gandhi Nagar,
Kallakurichi-602 202.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records of the Respondent relating to the impugned order DRC-07 Reference No:ZD330824273589T dated 29.08.2024 issued by the Respondent and quash the same as illegal, arbitrary, unconstitutional and further direct the respondent to



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re-do the assessment afresh by providing an opportunity of personal hearing as per provisions of CGST/ TNGST Act, 2017.

For Petitioner : Mr.S.Nagarjun

For Respondent : Ms.Amrita Dinakaran
Government Advocate

ORDER

The present writ petition is filed challenging the impugned order dated 29.08.2024 relating to the assessment year 2019-20.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in the business of pharmaceutical retails and is registered under the Goods and Services Tax Act, 2017. During the relevant period 2019-20, the petitioner filed its returns and paid the appropriate taxes. There was an inspection of the petitioner's place of business in terms of Section 67 of the Act. During the course of such inspection, *inter-alia* the following discrepancies were noticed:

- i) Mismatch between GSTR 3B and GSTR 2A;
- ii) Short disclosure of inward supply.

3. Pursuant thereto, a notice in DRC-01A was issued on 04.06.2024, another notice in DRC-01 was issued on 25.06.2024 followed by reminder notices dated 11.07.2024, 24.07.2024 and 02.08.2024. However, the petitioner



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had not responded to any of the above notices, the impugned order was thus passed confirming the proposal. It is 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 under “additional notices and orders” tab on the GST Portal, thereby, the petitioner was unaware of the initiated proceedings and was thus unable to participate in the adjudication proceedings. 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.

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. It



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was submitted that pursuant to the impugned order of assessment, recovery proceedings were initiated and bank accounts have been attached and requests that the same may be lifted, to which the learned Government Advocate 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 29.08.2024 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



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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.



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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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