IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.01.2025

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.2513 of 2025
and
W.M.P. Nos.2833 and 2834 of 2025

Tvl.D.P Spinners,
Rep by its proprietrix V Sathiya Priya,
No.16, Sikkandar Street,
Udumalpet 642 126. ... Petitioner

Vs.

The Assistant Commissioner (ST)
Udumalpet (South) Assessment Circle,
Udumalpet 642 126.
... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records of the Respondent in his proceedings in Ref:33CWXPS0520G1ZD/ 2019-20 dated 28.08.2024 and quash the same as illegal.

For Petitioner : Mr.S.Ramanathan

For Respondent : Mr.G.Nanmaran
Special Government Pleader

ORDER

The present writ petition is filed challenging the impugned order dated 28.08.2024 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 manufacturer and dealer in yarn 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. However, on scrutiny of the returns under Section 61 of the Act, it was noticed that there was a mismatch between GSTR-3B and GSTR-2A.

3. Pursuant thereto, a show cause notice in Form DRC-01 dated 10.01.2024 followed by reminder notices were issued to the petitioner through GST common portal and personal hearing opportunities were also offered to the petitioner. The petitioner had submitted its reply along with a copy of GSTR 2A. However, the same was rejected on the premise that the reply has not got reflected in GSTR-2A and was not supported by material evidence and thus the impugned order was passed confirming the proposal. 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 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.

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 Special Government Pleader 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 28.08.2024 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 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.

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
jd

To:
The Assistant Commissioner (ST)
Udumalpet (South) Assessment Circle,
Udumalpet 642 126.

MOHAMMED SHAFFIQ, J.

jd

W.P. No.2513 of 2025

28.01.2025