IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2025

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.2846 of 2025
and
W.M.P.Nos.3147 & 3149 of 2025

M/s.Sree Vaari Constructions,
Rep by its Partner Mr.M.Prasad,
2/329, M.A.Koil Street,
M.A. Nagar, Redhills,
Chennai, Tiruvallur,
Tamil Nadu 600052.
GSTIN-33ACFFS5644D1ZA. ... Petitioner

Vs.

The State Tax Officer,
Cholavaram Assessment Circle,
Integrated Commercial Taxes Building,
First Floor, Room No.108,
No.32, Elephant Gate Bridge Road,
Vepery, Chennai 600 003. ... 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 impugned proceedings of the Respondent in GSTIN No.33ACFFS5644D1ZA/2018-19 dated 29.04.2024 along with its consequential Summary Order in FORM GST

DRC-07 with Reference No:ZD3304242387098 dated 29.04.2024 for the Tax Period April 2018 to March 2019 and quash the same.

For Petitioner : Ms.S.Premalatha
For Respondent : Mr.G.Nanmaran
Special Government Pleader

ORDER

The present writ petition is filed challenging the impugned order 29.04.2024 passed by the respondent relating to the assessment year 2018-2019.

2. It is submitted by the learned counsel for the petitioner that the petitioner is carrying on the business of construction activities and is registered under the Goods and Services Tax Act, 2017. During the relevant period 2018-19, the petitioner had filed its returns and paid the appropriate taxes. However, on scrutiny of the returns filed by the petitioner, the following discrepancies were noticed:

(i) mismatch between GSTR-3B and Form 26AS

(ii) mismatch between GSTR-3B and GSTR-9/9C

3. Pursuant thereto, a show cause notice in Form DRC-01 dated 09.08.2023 was issued to the petitioner through GST common portal, followed by reminder notice dated 25.10.2023 and thereafter, personal hearing opportunity was afforded to the petitioner. However, the petitioner had neither

filed its reply nor availed the opportunity for personal hearing and thus, the impugned order came to be passed by the respondent, confirming the proposals. 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 **Sree Manoj International Vs. Deputy State Tax Officer in W.P.No.10977 of 2024 dated 25.04.2024**, to submit that this court has remanded the matter back in similar circumstances subject to payment of 10% of the disputed taxes.

5. It was further submitted that the petitioner is ready and willing to pay 10% 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 29.04.2024 is set aside.

b) The petitioner shall deposit 10% 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 10% of disputed taxes directed to be paid. The assessing authority shall then intimate the balance amount out of 10 % 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 10% 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 10% 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 10 % 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., 10% 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.

29.01.2025

Speaking (or) Non Speaking Order
Index : Yes/ No
Neutral Citation: Yes/No
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MOHAMMED SHAFFIQ, J.

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To
The State Tax Officer,
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