



W.P.No.2992 of 2025

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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.2992 of 2025

and

W.M.P. Nos.3276 and 3278 of 2025

B.Zunaitha Parveen
Proprietor
No.05, Thayagam, Budhar Street, Kamaraj Nagar,
Avadi, Tiruvallur, Tamil Nadu 600 071.

... Petitioner

Vs.

Deputy State Tax Officer II,
Avadi Assessment Circle,
Integrated Commercial Taxes Building (North Division),
First Floor, Room No.122 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, call for the impugned order of the respondent passed in GSTIN:33AAXPZ8871H1ZL/2017-18 dated 23.12.2023 and quash the same.

For Petitioner

: Mr.R.Kumar

For Respondent

: Mr.G.Nanmaran

Special Government Pleader



W.P.No.2992 of 2025

ORDER

WEB COPY The present writ petition is filed challenging the impugned order dated 23.12.2023 passed by the respondent relating to the assessment year 2017-18.

2. It is submitted by the learned counsel for the petitioner that the petitioner is a dealer in works contractor and is registered under the Goods and Services Tax Act, 2017. During the relevant period 2017-18, the petitioner filed its returns and paid the appropriate taxes. However, on scrutiny of returns, the following discrepancies were noticed:

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

(ii) Mismatch between GSTR-3B and GSTR9/9C

3. Pursuant thereto, a notice in Form ASMT-10 was issued on 04.07.2023, followed by a show cause notice in Form DRC-01 dated 07.08.2023 was issued to the petitioner through common portal and reminder notice thereon. Further, personal hearing opportunity was also afforded to the petitioner. However, the petitioner had neither filed its reply nor availed of opportunity for personal hearing, the impugned order was thus passed confirming the proposal.

4. The impugned order is challenged on the premise that neither the show



W.P.No.2992 of 2025

cause notices nor the impugned order of assessment has been served by tendering to the petitioner or by registered post, instead it was uploaded in the common portal under the head “View Additional Notices and Orders” tab, thereby, the petitioner was unaware of the initiated proceedings and 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.

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.

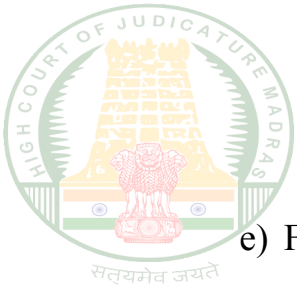
6. It was further submitted that the petitioner is ready and willing to pay 25% of the disputed tax and that they may be granted one final opportunity before the adjudicating authority to put forth their objections to the proposal, to which the learned Special Government Pleader appearing for the respondent does not have any serious objection.



W.P.No.2992 of 2025

WEB COPY By consent of both parties, the writ petition stands disposed of on the following terms:

- a) The impugned order dated 23.12.2023 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.

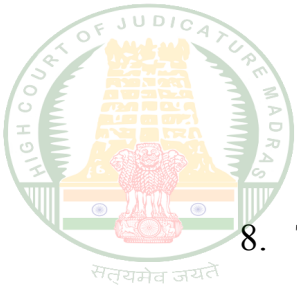


W.P.No.2992 of 2025

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.



W.P.No.2992 of 2025

8. There shall be no order as to costs. Consequently, connected

miscellaneous petitions are closed.

31.01.2025

Speaking (or) Non Speaking Order

Index : Yes/ No

Neutral Citation: Yes/No

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To

Deputy State Tax Officer II,

Avadi Assessment Circle,

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First Floor, Room No 122 Elephant Gate Bridge Road,

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W.P.No.2992 of 2025

MOHAMMED SHAFFIQ, J.

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W.P.No.2992 of 2025

31.01.2025