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.3457 of 2025
and
W.M.P.Nos.3839, 3841 and 3842 of 2025

Tvl.Mannur Square Land Private Limited,
Represented by it Director,
Mr.Rangaswamy Ramajayam,
Flat No.14, 3rd Floor, Harrington Apartments,
No.98, Harrington Road, Chetpet,
Chennai 600 031. .. Petitioner

Vs.

Deputy State Tax Officer,
Valluvarkottam Assessment Circle,
No.1, PAPJM Building, 6th Floor,
Greams Road, Chennai 600 006. .. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the respondent in Order in Reference No.ZD3304242070514 passed under Section 73 of the TNGST Act, 2017 for the period 2019-2020 dated 26.04.2024 and quash the same as illegal and not in accordance with law and consequently direct the respondent to conduct fresh assessment proceedings after providing a reasonable opportunity of hearing to the petitioner in accordance with law.

For Petitioner : Ms.Vandanavyas

For Respondents : Mr.V.Prashanth Kiran
Government Advocate

ORDER

The present writ petition has been filed challenging the impugned order passed by the respondent in Reference No.ZD3304242070514 dated 26.04.2024, passed by the respondent on the premise that the same is made in violation of principles of natural justice.

2. It is submitted by the learned counsel for the petitioner that the petitioner engaged in business of Real Estate and is registered under the GST Act. During the relevant period of 2018-19, the petitioner had filed the returns and paid appropriate taxes. However, on scrutiny of the returns it was *inter alia* noticed that turnover in GSTR 1 and GSTR 3B is lower than the purchases as per GSTR 2A / 2B.

3. It is submitted by the learned Counsel for the petitioner that an intimation in Form DRC 01 was issued to the petitioner on 03.01.2024.

Thereafter, three reminder notice viz., 27.02.2024, 16.03.2024 and 25.03.2024. However, the petitioner had not filed any effective reply responding to the allegation set out in the notice. In view thereof thereof the impugned order came to be passed confirming the proposal. Subsequent to the passing of the impugned order recover proceeding was also initiated and bank accounts were attached. It is submitted by the learned counsel for the petitioner that neither the show cause notice 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 "View Additional Notices / Orders" column GST Portal, thereby, the petitioner was unaware of the initiated proceedings and was thus unable to participate in the adjudication proceedings.

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. 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 Government Advocate appearing for the respondent does not have any serious objection.

5. By consent of both parties, the writ petition stands disposed of on the following terms:

a) The impugned order dated 26.04.2024 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 of 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 accounts 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.

6. 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
spp

To:

Deputy State Tax Officer,
Valluvarkottam Assessment Circle,
No.1, PAPJM Building, 6th Floor,
Greams Road, Chennai 600 006.

MOHAMMED SHAFFIQ, J.

spp

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