IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.09.2025

Coram:
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.33034 of 2025
and W.M.P.Nos.37064 & 37066 of 2025

Tvl.JP Hospitality and Corporate Services,
Represented by its Proprietor V.Shanthi,
No.26/57, Anna Street,
Valasaravakkam,
Chennai – 600 087.

...Petitioner

Versus

The Commercial Tax Officer,
Porur Assessment Circle,
No.4/109, 1st Floor, Bangalore Highway Road,
Varadharajapuram, Nazrethpet,
Chennai – 600 123.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus to call for the records on the file of the respondent in GSTN: 33BPDPS0095E2Z1/2021-22 Reference No.ZD330823097081F dated 17.08.2023 for the Tax Period 2021-22 and quash the same and direct the respondent to pass orders afresh after affording the petitioner an opportunity of hearing.

For Petitioner	:	Mr.R.Karunagaran
For Respondent	:	Ms.Amirta Poonkodi Dinakaran Government Advocate (Tax)

ORDER

Ms.Amirta Poonkodi Dinakaran, learned Government Advocate (Tax) takes notice for the respondent.

2. The present writ petition has been filed by the petitioner challenging the Order dated 17.08.2023 passed by the respondent, for the Tax Period 2021-22.

3. The learned counsel for the petitioner submitted that the petitioner is running a proprietorship concern viz., Tvl.JP Hospitality and Corporate Services. The petitioner has been duly filing their returns and paying all the statutory taxes. On scrutinization of the returns filed by the petitioner for the year 2021-22, it was noticed that the petitioner has availed Input Tax Credit (ITC) to a value of Rs.2,54,952/- from a non-existent company viz., Tvl.Balaji Co. Hence, the respondent issued a Show Cause Notice in Form GST DRC-01 dated 06.06.2023, followed by a Personal Hearing Notice dated 12.07.2023. However, the petitioner neither replied to the Show Cause Notice nor appeared for personal hearing and thus, the respondent

has passed the impugned Assessment Order dated 17.08.2023 along with Summary Order in Form GST DRC-07 dated 17.08.2023, confirming the demands proposed in the Show Cause Notice and directing the petitioner to pay the demand of Rs.5,53,721/- comprising tax, interest and penalty.

3.1. It is submitted by the learned counsel for the petitioner that both the Show Cause Notice and the impugned order of assessment had not been served to the petitioner either by tender or by way of RPAD, instead, the same had been uploaded in the GST portal and thus, the petitioner was unaware of the proceedings initiated by the respondent and was also unable to participate in the adjudication proceedings. It is also submitted by the learned counsel for the petitioner that if the petitioner is provided with an opportunity, the petitioner would be able to explain the alleged discrepancies.

3.2. The learned counsel for the petitioner has placed reliance on the order passed by 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 in similar circumstances, this Court has remanded the matter back to the respondent, subject to the payment of 25% of the disputed tax by the petitioner therein.

3.3. The learned counsel for the petitioner further submitted that the petitioner is ready and willing to pay 25% of the disputed tax amount and that one final opportunity may be granted to the petitioner to put forth their objections to the proposal before the Adjudicating Authority, to which, the learned Government Advocate (Tax) appearing for the respondent does not have any serious objection.

4. By consent of the learned counsel on both sides, this Writ Petition stands disposed of on the following terms:

(a) The impugned Assessment Order dated 17.08.2023 passed by the respondent is quashed.

(b) The petitioner shall deposit 25% of the disputed tax as agreed by the learned counsel for the petitioner, within a period of four weeks from the date of uploading of web copy of this order without waiting for the receipt of a certified copy of this order.

(c) If any amount has been recovered or paid out of the disputed tax, 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 intimate the balance amount out of 25% of disputed tax to be paid, if any, within a period of one week from the date of uploading of web copy of this order without waiting for the receipt of a certified copy of this order. The petitioner shall deposit such remaining sum, within a period of three weeks from such intimation.

(d) Failure to comply with the above condition viz., payment of 25% of disputed tax within a period of four weeks from the date of uploading of web copy of this order shall result in restoration of the impugned order.

(e) 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 that the petitioner shall pay 25% of the disputed tax, within a period of four weeks from the date of uploading of web copy of this order.

(f) On complying with the above condition, the impugned order of assessment shall be treated as Show Cause Notice and the petitioner shall submit their objections along with supporting documents/material, within a period of four weeks from the date of compliance of the conditions relating to deposit in Clauses (b) and (c). If any such objections are filed, the respondent shall consider the same and pass orders, in accordance with law, after affording a reasonable opportunity of hearing to the petitioner.

(g) It is made clear that if the above conditions viz., payment of 25% of disputed tax is not complied or objections are not filed within the stipulated time as stated above, the impugned order of assessment shall stand restored.

5. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

02.09.2025

mrr

Index : Yes/No

Speaking Order (or) Non-Speaking Order

To

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MOHAMMED SHAFFIQ, J.

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