IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2025

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.32491 of 2025

Ismail Mohamed Ansari : Petitioner

Vs

Deputy Commercial Tax Officer
Big Bazaar Street Circle
Coimbatore : Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorari calling for the records of the respondent relating to the impugned order dated on 29.04.2024 proceedings in GSTIN-33BBAPM1178B1Z8/2018-19 along with consequential order in DRC-07 with Ref No. ZD330424235666D passed by the respondent so far as the petitioner is concerned quash the same as illegal invalid arbitrary and devoid of merits.

For Petitioner : Mr.P.James Victor Rajkumar

For Respondent : Mr.Amirtha Dinakaran,
Government Advocate (Taxes)

ORDER

The present writ petition is filed challenging the impugned order and the consequential order dated 29.04.2024 relating to the assessment year 2018-19.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in the business of trading-wholesaler/distributor and is registered under the Goods and Services Tax Act, 2017. During the relevant period 2018-19, the petitioner filed its returns and paid the appropriate taxes. However, on verification of the returns, it was *inter-alia* noticed that there is mismatch between GSTR -3B and GSTR-2B.

3. Pursuant thereto, a notice in ASMT 10 was issued on 07.08.2023, followed by a notice in DRC 01 dated 25.12.2023 and reminders dated 09.02.2024, 05.03.2024 and 01.04.2024. In response to the same, petitioner filed its replies on 12.04.2024 and 27.04.2024, seeking time to file relevant documents. Subsequently, personal hearing was offered on 29.03.2024. However, the petitioner had not responded to any of the above notices, the impugned order and the consequential order were thus passed confirming the proposal. It is submitted by the learned counsel for the petitioner that neither the show cause notices nor the impugned order of assessment has been served on the petitioner by tender or sending it by RPAD, instead it had been uploaded under "additional notices and orders" tab on the GST Portal, thereby, the petitioner was unaware of the initiated

proceedings and was 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.

4. The learned counsel for the petitioner would 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 Government Advocate 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 and the consequential order dated 29.04.2024 are set aside.

b) The petitioner shall deposit 25% of the disputed taxes as agreed to by both the learned counsel for the petitioner and the respondent, within a period of four weeks from the date of uploading of web copy without waiting for the receipt of the certified copy.

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 uploading of web copy without waiting for the receipt of the certified copy. 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 taxes within the stipulated period i.e., 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 viz., payment of 25 % of the disputed taxes.

f) 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 compliance of the conditions relating to deposit in Clause (b) and (c) supra, 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., payment of 25% of disputed taxes is not complied or objections are not filed within the stipulated time as stated above the impugned order of assessment shall stand restored.

7. There shall be no order as to costs. Consequently, WMP Nos.36413 to 36418 of 2025 are closed.

01.09.2025

Speaking (or) Non Speaking Order
Neutral Citation: Yes/No
mrn

To

Deputy Commercial Tax Officer
Big Bazaar Street Circle
Coimbatore

MOHAMMED SHAFFIQ, J.

(mrn)

W.P.No.32491 of 2025

01.09.2025