IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.04.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.Nos.29588 , 29800, 29589, 29592 & 29594 of 2024
and
W.M.P.Nos.32493, 32494, 32246, 32249, 32251 & 32254 of 2024

M/s.Balaji Engineering,
Rep. by its
Prop. Mr.Malli Rajeshwar Reddy,
No.18, 3rd Floor, Quiens Castle,
Laxmi Nagar, Nanganallur,
Chennai, Tamil Nadu - 600 061. ... Petitioner in all W.P.,

Vs.

1.The Superintendent of GST & Central Excise,
Range IV, Alandur Division,
South Chennai Commissionerate,
First Floor, MHU Complex,
692, Anna Salai, Nandanam,
Chennai - 600 035.

... 1st respondent in W.P.No.29800 of 2024 & 2nd respondent in W.P.Nos.29588, 29589, 29592 & 29594 of 2024

2.The Deputy State Tax Officer - 2,
Nanganallur Assessment Circle,
Commercial Taxes Department,
Room No.224, 2nd Floor, Anna Salai,

Nandanam, Chennai - 35.
... 1st respondent in W.P.Nos.29588, 29589, 29592 & 29594 of 2024 & 2nd respondent in W.P.No.29800 of 2024

Prayer in W.P.No.29588 of 2024: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the Forms DRC-07 in GSTIN 33ADGPV2628A1ZV/2018-2019 dated 14.02.2024 (hereinafter called as "Impugned Order") passed by the first respondent and quash the same.

Prayer in W.P.No.29589 of 2024: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the Forms DRC - 07 in GSTIN 33ADGPV2628A1ZV/2019-2020 dated 27.02.2024 (hereinafter called as "Impugned Order") passed by the first respondent and quash the same.

Prayer in W.P.No.29800 of 2024: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified mandamus to quash the order in original No.13/2023 dated 30.06.2023 ("Impugned Orders") passed by the first respondent as illegal and arbitrary and direct the first respondent to re-consider the matter providing sufficient personal hearings and grant such further or other orders.

Prayer in W.P.No.29592 of 2024: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the Forms DRC - 07 in GSTIN

33ADGPV2628A1ZV/2020-2021 dated 28.02.2024 (hereinafter called as "Impugned Order") passed by the first respondent and quash the same.

Prayer in W.P.No.29594 of 2024: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the Forms DRC - 07 in GSTIN 33ADGPV2628A1ZV/2021-2022 dated 29.02.2024 (hereinafter called as "Impugned Order") passed by the first respondent and quash the same.

For Petitioner : Mr.A.Dhamodaran
in all W.P.'s.

For Respondents : Mr.T.N.C.Kaushik,
Additional Government Pleader (Tax)
for R1 in W.P.Nos.29588,
29594, 29592, 29589 of 2024 & R2 in
W.P.No.29800 of 2024

Mr.R.P.Pragadish,
Senior Standing Counsel
for R2 in W.P.Nos.29588,
29594, 29592 & 29589 of 2024
& For R1 in W.P.Nos.29800 of
2024

COMMON ORDER

Since the issue involved and the relief sought in all these Writ Petitions are identical in nature, the same were heard together and disposed of vide this common order.

2. Challenging the orders dated 14.02.2024 (in respect of assessment year 2018-19), 27.02.2024 (A.Y.2019-20), 28.02.2024 (A.Y.2020-21), 29.02.2024 (A.Y.2021-22), passed by the Deputy State Tax Officer-2 and also the Order in Original No.13 of 2023 dated 30.06.2023, the petitioner had filed these Writ Petitions.

3. For the sake of convenience, parties are referred to as per their rank in W.P.No.29588 of 2024.

4. The learned counsel for the petitioner submitted that the show cause notices vide SCN No.11 of 2022 were issued to the petitioner on 23.12.2022, for a short payment of tax in GSTR-3B for July 2017-March 2018. The petitioner had submitted its detailed reply on 29.03.2023 to

the said show cause notices. Despite submitting the detailed reply, the 2nd respondent issued an Order in Original (OIO No.13/2023) on 30.06.2023, initiating recovery proceedings and subsequent proceedings for April 2018 to March 2019.

5. It is also submitted by the learned counsel for the petitioner that without having jurisdiction, the first respondent also initiated parallel proceedings against the petitioner by issuing SCNs, pointing out certain defects in respect of the impugned assessment years, for which, the petitioner had submitted its replies, defending all issues raised by the State Department. However, without considering the replies submitted by the petitioner and not providing the sufficient opportunity of personal hearing, the impugned assessment orders were issued by the first respondent on 28.02.2024. Challenging the jurisdiction of the first respondent/Deputy State Tax Officer-2 to issue the show cause notices and the impugned assessment orders and the order in original by the Superintendent of GST & Central Excise, the petitioner had filed these writ petitions.

6. The learned counsel for the petitioner submitted that the petitioner is ready and willing to deposit 25% of the disputed tax including 10% of the disputed tax and also undertakes to produce the proof before the Appellate Authority while filing the appeal.

7. Mr.T.N.C.Kaushik, learned Additional Government Pleader (Tax) appearing for the first respondent submitted that the first respondent after considering the replies filed by the petitioner, three reminder notices were issued to the petitioner for personal hearing. However, the petitioner has neither submitted any working/proof by any means nor appeared for personal hearing. Hence, the impugned order came to be passed by the first respondent.

8. Heard both sides and perused the materials available on record.

9. The learned counsel for the petitioner contended that the first respondent has no jurisdiction to issue the show cause notices.

According to the petitioner, when the State Authority has issued the show cause notices, in respect of the similar issue, the Central Authority has no authority to initiate proceedings against the petitioner. On the other hand, the learned Additional Government Pleader submitted that the State Department/Authority can very well issue the show cause notice.

10. In the present case, it appears that the first respondent has initiated proceedings against the petitioner based on the available material, which are not part of the proceedings initiated by the second respondent. Therefore, this Court does not find any force in the submission made by the petitioner with regard to the jurisdiction of the first respondent.

11. Considering the submissions made by the learned counsel on either side and taking into consideration the replies filed by the petitioner and the non-appearance of the petitioner before the adjudicating authority, despite the reminders, this Court is not inclined to

entertain the writ petitions. Accordingly, the writ petitions are dismissed. However, liberty is granted to the petitioner to file appeals subject to the condition that the petitioner deposits additional 15% of the disputed tax in respect of each of the impugned assessment years over and above the statutory deposit of 10% of the disputed tax as pre-deposit condition for filing the appeals, within a period of four (4) weeks from the date of receipt of a copy of this order. The Appellate Authority is directed to ensure payment of 25% of the disputed tax in respect of each of the impugned assessment years by the petitioner, as directed above and thereafter, decide the appeals on merits and in accordance with law as expeditiously as possible. No costs. Consequently, connected Miscellaneous Petitions are closed.

23.04.2025

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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To
1.The Superintendent of GST & Central Excise,
Range IV, Alandur Division,
South Chennai Commissionerate,
First Floor, MHU Complex,
692, Anna Salai, Nandanam,
Chennai - 600 035.

2.The Deputy State Tax Officer - 2,
Nanganallur Assessment Circle,
Commercial Taxes Department,
Room No.224, 2nd Floor, Anna Salai,
Nandanam, Chennai - 35.

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KRISHNAN RAMASAMY.J.,

jd

W.P.Nos.29588 , 29800, 29589, 29592 & 29594 of 2024

23.04.2025