IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2025

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.32020 of 2025

M/s.H.P, Munikrishna Chetty,
Represented by its Proprietor,
M.Saravanababu,
No.265 NA, Bangalore Road,
Krishnagiri Taluk,
Krishnagiri 635 001. ... Petitioner

Vs.

State Tax Officer,
Krishnagiri-I Circle,
Krishnagiri. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the connected records pertaining to the impugned proceedings of the respondent herein made in Ref:GSTIN:33AUXPS4718G1Z3/2020-21 dated 25.02.2025 and quash the same.

For Petitioner : Mr.Manoharan S.Sundaram

For Respondent : Mr.V.Prashanth Kiran
Government Advocate

ORDER

By consent of both sides, this writ petition is taken up for final disposal at the stage of admission itself.

2. The present writ petition is filed challenging the impugned order dated 25.02.2025 relating to the assessment year 2020-21.

3. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in the business of selling Portland Cement and Aluminous Cement and is registered under the Goods and Services Tax Act, 2017. During the relevant period 2020-21, the petitioner filed its returns and paid the appropriate taxes. However, on verification of the returns the following discrepancies were *inter-alia* noticed:

i) Excess claim of Input Tax Credit

ii) Input Tax Credit to be reversed on non-business transactions and exempt supplies

iii) Under declaration of Ineligible Input Tax Credit and

iv) GSTR-1 late fee

4. Pursuant thereto, a show cause notice in DRC-01 was issued on 27.11.2024, followed by two reminder notices dated 20.01.2025 and 11.02.2025.

Personal hearing was also granted on 11.12.2024, 27.01.2025 and 17.02.2025. In response to the show cause notice, petitioner filed its reply dated 12.02.2025. It is further submitted that while considering the reply filed by petitioner, respondent partially accepted petitioner's reply in respect of the discrepancy of excess claim of Input Tax Credit and rejected petitioner's reply in respect of other discrepancies and passed impugned order dated 25.02.2025. It is further 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 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. It

was submitted that pursuant to the impugned order of assessment, recovery proceedings were initiated and bank accounts have been attached and requests that the same may be lifted on payment of 25% of disputed taxes, to which the learned Government Advocate appearing for the respondent does not have any serious objection.

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

a) The impugned order dated 25.02.2025 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 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) 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 shall be made within a period of 1 week from the date of uploading of web copy without waiting for receipt of certified copy of the order. 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 3 weeks from the date of such intimation.

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 uploading of web 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 uploading of web copy without waiting for the receipt of certified copy, 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 i.e., four weeks from the date of uploading of web copy of this order, the impugned order of assessment shall stand restored.

8. There shall be no order as to costs.

01.09.2025

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

To:

State Tax Officer,
Krishnagiri-I Circle,
Krishnagiri.

MOHAMMED SHAFFIQ, J.

spp

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