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.32919 of 2025
and WMP Nos.36906, 36907 of 2025

Dinesh Kumar : Petitioner

Vs.

Deputy Commercial Tax Officer,
Kodungaiyur Avadi,
Tiruvallur, Tamil Nadu : Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorari calling for the records of order of assessment in DRC-07 bearing reference number ZD3311241351027 in GSTIN/ID 33AAGPD2450D1ZH/APR 2020-MAR 2021 dated 18-11-2024 passed by the respondent.

For Petitioner : Mr.R.Ganesh Kanna

For Respondent : Ms.Amirta Dinakaran,
Government Advocate (Taxes)

ORDER

The present writ petition is filed challenging the impugned order dated 18.11.2024 relating to the assessment year 2020-21.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in the business of mechanical components 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 it was *inter-alia* noticed that there was mismatch between GSTR 3B and GSTR 2B/2A.

3. Pursuant thereto, a notice in DRC-01 was issued on 24.06.2024, followed by a reminder notice dated 15.07.2024. Further personal hearings were offered on 23.09.2024 and 08.10.2024. However, the petitioner had not responded to any of the above notices, the impugned order was 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 discrepancy.

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 dated 18.11.2024 is 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., 25% of disputed taxes is not complied or objections are not filed within the stipulated period 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, connected miscellaneous petitions are closed.

01.09.2025

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

To
Deputy Commercial Tax Officer,
Kodungaiyur Avadi,
Tiruvallur, Tamil Nadu

MOHAMMED SHAFFIQ, J.

(mrn)

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