IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.09.2025

Coram:
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.33172 of 2025
and W.M.P.Nos.37284 & 37285 of 2025

Gowtham Enterprises,
Represented by its Proprietor,
Mr.Varadaraj Prakash,
Sholinghur to Arakkonam Main Road,
Kumpinipet Village, Thandalam Panchayat,
Arakkonam Taluk, Vellore – 631 003.

...Petitioner

Versus

The Superintendent of CGST & Central Excise,
Arakkonam Range,
No.9, Abdul Majeed Street,
Arakkonam – 631 001.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari to call for the records on the files of the respondent relating to the impugned order in Reference No.ZD330225220642W dated 21.02.2025 and Order-in-Original No.212/2025-SUPDT (GST) dated 21.02.2025 in GSTIN/ID: 33BEQPP8042A2ZJ passed for the F.Y.2020-21 and quash the same as illegal, arbitrary and violative of the principles of natural justice.

For Petitioner	:	Mr.R.Ananth
For Respondent	:	Mr.K.S.Ramasamy, Senior Standing Counsel

ORDER

Mr.K.S.Ramasamy, learned Senior Standing Counsel takes notice for the respondent.

2. The present writ petition has been filed by the petitioner challenging the Order dated 21.02.2025 bearing Reference No.ZD330225220642W and Order-in-Original No.212/2025-SUPDT (GST) dated 21.02.2025 passed by the respondent.

3. The learned counsel for the petitioner submitted that the petitioner is engaged in the business of clay articles, roofing materials and works contract services. The petitioner has been duly filing their returns and paying all the statutory taxes. However, on scrutinization of the returns filed by the petitioner for the Financial Year 2020-21, following discrepancies were *inter-alia* noticed:

(i) Excess availment of ITC in GSTR-3B not reflected in GSTR-2A/2B;

(ii) Wrong availment of ITC in GSTR-3B returns, in contravention of the provisions of Sections 16(4) and 16(5);

(iii) Non-payment/short payment of late fee for belated filing of GSTR-3B;

(iv) Non-payment of late fee for belated filing of GSTR-1;

(v) Late fee for belated filing of GSTR-9

Hence, the respondent issued a Show Cause Notice in Form GST DRC-01 dated 19.11.2024 along with an Annexure dated 18.11.2024, to which, the petitioner submitted their detailed Reply in Form GST DRC-06 dated 23.01.2025 along with supporting documents. However, without considering the petitioner's reply, the respondent has passed the impugned orders dated 21.02.2025, confirming the demands proposed in the Show Cause Notice and directing the petitioner to pay the demand of Rs.26,52,003/- comprising tax, interest, penalty and late fee.

3.1. 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.

3.2. 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 Senior Standing Counsel appearing for the respondent does not have any serious objection.

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

(a) The impugned orders dated 21.02.2025 passed by the respondent are 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 of assessment.

(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) *supra*. 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.

10.09.2025

mrr
Index : Yes/No
Speaking Order (or) Non-Speaking Order

To

The Superintendent of CGST & Central Excise,
Arakkonam Range,
No.9, Abdul Majeed Street,
Arakkonam – 631 001.

MOHAMMED SHAFFIQ, J.

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