IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.09.2025

Coram:
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.32956 of 2025
and W.M.P.Nos.36957 & 36961 of 2025

Tvl.Sri Kanna Blue Metals,
(Represented by its Managing Partner,
Mr.Pradeep Chinnasamy),
28/37-B, Hospital Colony,
Mettur Dam,
Salem, Tamil Nadu – 636 401.

...Petitioner

Versus

The State Tax Officer,
Mettur Assessment Circle,
Mettur.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records on the files of the respondent herein in GSTIN: 33ADYFS8871N1ZT/2020-21 dated 14.02.2025 along with the Form GST DRC-07 with Reference No.ZD330225145073V dated 15.02.2025, for the tax period APR 2020 – MAR 2021 and quash the same.

For Petitioner	:	Mr.A.P.Karventhan
For Respondent	:	Mr.T.N.C.Kaushik, Additional Government Pleader (Tax)

ORDER

Mr.T.N.C.Kaushik, learned Additional Government Pleader (Tax) takes notice for the respondent.

2. The present writ petition has been filed by the petitioner challenging the Order dated 14.02.2025 and Form GST DRC-07 dated 15.02.2025 issued by the respondent.

3. The learned counsel for the petitioner submitted that the Assistant Commissioner, Mettur vide Order dated 02.09.2024, cancelled the petitioner's GST registration. However, on scrutinization of the returns filed by the petitioner for the year 2020-21, following discrepancies were *inter-alia* noticed:

(i) The excess Input Tax Credit (ITC) claimed on account of non-reconciliation of information declared in GSTR-3B; and

(ii) Under declaration of ineligible ITC

Hence, the respondent issued a Show Cause Notice in Form GST DRC-01 dated 25.11.2024, following by a Reminder Notice dated 11.01.2025. However, the petitioner did not reply to the Show Cause Notice and thus, the respondent has passed the impugned Assessment Order dated 14.02.2025, confirming the demands proposed in the Show Cause Notice and directing the petitioner to pay the demand of Rs.13,71,252/- comprising tax, interest, penalty and late fee. Further, the respondent issued Form GST DRC-07, summarising the demands which were confirmed in the Assessment Order.

3.1. It is submitted by the learned counsel for the petitioner that both the Show Cause Notice and the impugned Assessment Order had not been served to the petitioner either by tender or by way of RPAD, instead, the same had been uploaded in "Additional Notices and Orders" column of GST portal. That apart, the petitioner's GST registration was cancelled by the Assistant Commissioner, Mettur as early as on 02.09.2024 and hence, the petitioner had no occasion to log in the GST portal. Therefore, the petitioner was unaware of the proceedings initiated by the respondent and was also unable to participate in the adjudication proceedings. It is also submitted by the learned counsel for the petitioner that if the petitioner is provided with an opportunity, the petitioner would be able to explain the alleged discrepancies.

3.2. 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.

3.3. 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 Additional Government Pleader (Tax) appearing for the respondent does not have any serious objection.

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

(a) The impugned Order dated 14.02.2025 as well as Form GST DRC-07 dated 15.02.2025 issued 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). 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.

02.09.2025

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

To

The State Tax Officer,
Mettur Assessment Circle,
Mettur.

MOHAMMED SHAFFIQ, J.

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W.P.No.32956 of 2025

02.09.2025