IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.09.2025

Coram:
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.33074 of 2025
and W.M.P.Nos.37129 & 37130 of 2025

M/s.MJB Decors,
Represented by M.Balamurugan son of the deceased Proprietor,
No.3, Bhavaniamman Koil Street,
Ramakrishna Nagar, Velachery West,
Chennai – 600 042.

...Petitioner

Versus

1.State Tax Officer,
Velacherry Assessment Circle,
Room No.234, Integrated Commercial Tax Office,
Nandanam, Chennai – 600 035.

2.Assistant Commissioner (ST),
Velachery Assessment Circle,
2nd Floor, Integrated Building Commercial Tax Office,
Nandanam, Chennai – 600 035.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for records relating to the impugned order bearing reference number ZD330824246346A dated 27.08.2024 along with the detailed order passed by 1st respondent and quash the same.

For Petitioner	:	Ms.K.Aarthy
For Respondents	:	Mrs.Vasanthamala, Government Advocate

ORDER

Mrs.Vasanthamala, learned Government Advocate takes notice for the respondents.

2. The present writ petition has been filed by the petitioner challenging the Order dated 27.08.2024 bearing Ref.No.ZD330824246346A along with detailed Assessment Order dated 27.08.2024 passed by 1st respondent.

3. The learned counsel for the petitioner submitted that the petitioner company is engaged in the business of interior decorations. The petitioner company was closed and it was not operating since September, 2024. While so, on scrutiny of the returns filed by the petitioner for the Financial Year 2019-2020, following discrepancies were *inter-alia* noticed:

(i) Excess ITC availed in GSTR-3B compared to the tax on inward supplies declared by the suppliers

(ii) Under declaration of ineligible ITC

(iii) Invalid ITC under Section 16(4)

(iv) Interest on Late Payment of GSTR-3B

Hence, 1st respondent issued a Show Cause Notice in Form GST DRC-01 dated 23.05.2024, but, the petitioner did not submit their reply to the Show Cause Notice. Therefore, 1st respondent has passed the Order dated 27.08.2024 along with detailed Assessment Order dated 27.08.2024, confirming the demands proposed in the Show Cause Notice and directing the petitioner to pay the demand of Rs.1,28,582/- comprising tax, interest and penalty. Thereafter, 2nd respondent has issued a Letter dated 24.04.2025 to the petitioner's Banker viz., Indian Overseas Bank, Velachery Branch, Chennai, requesting to make lien on all the Bank Accounts maintained by the petitioner and send the available amount in the lien marked Accounts immediately as pay order/DD in favour of 2nd respondent, within 10 days from the receipt of that letter. That apart, 2nd respondent has issued a Bank Attachment Notice in Form GST DRC-13 dated 24.04.2025 to the petitioner's Banker seeking to recover a sum of Rs.12,56,658/- from the petitioner's Bank Account towards the tax dues arising out of the impugned Assessment Order, pursuant to which, petitioner's Bank Accounts have been freezed by the petitioner's Banker.

3.1. The learned counsel for the petitioner submitted 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 the GST portal. Thus, the petitioner was unaware of the proceedings initiated by 1st respondent and was unable to participate in the adjudication proceedings.

3.2. It is further submitted by the learned counsel for the petitioner that the petitioner came to know about the impugned Assessment Order only after the respondent-Department has initiated recovery proceedings against the petitioner. At that time, the time limit for filing Appeal under Section 107 of the CGST Act, 2017 got lapsed. Therefore, it is submitted that if the petitioner is provided with an opportunity, the petitioner would be able to explain the alleged discrepancies.

3.3. 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. respondent on condition that the petitioner shall pay 25% of the disputed tax.

3.4. It is further submitted by the learned counsel for the petitioner that the petitioner is ready and willing to pay 25% of the disputed tax amount and on such payment, attachment made in petitioner's Bank Accounts may be ordered to be lifted and 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 Government Advocate appearing for respondents 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 order dated 27.08.2024 as well as detailed Assessment Order dated 27.08.2024 passed by 1st 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.

(e) If there is any recovery by way of attachment of Bank Accounts 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, 1st 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

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MOHAMMED SHAFFIQ, J.

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