IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2025

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. Nos.33306 and 33310 of 2025
and
W.M.P. Nos.37442, 37444, 37446 and 37448 of 2025

M/s.Sabari Dream Homes,
Rep. By its Proprietor Mr.A.Kamalakannan,
New no.27, Old Number 12,
TDB Domicile, Ramanujam Street, T.Nagar,
Chennai, Tamil Nadu-600 017. ...Petitioner(s) in both W.Ps.

vs.

The Assistant Commissioner (ST)(FAC),
Nandanam Circle, Office of the Assistant Commissioner (ST),
Integrated Building of Registration and
Commercial Tax Department,
2nd Floor, Room No.233,
Nandanam, Chennai-600 035. ...Respondent(s) in W.P.No.33306 of 2025

The Assistant Commissioner (ST),
Nandanam North Circle,
46, III Floor, Greenways Road,
Chennai-600 028. ...Respondent(s) in W.P.No.33310 of 2025

PRAYER in W.P.No.33306 of 2025: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records of the impugned recovery notice in DRC-13 in Ref.No.GSTIN-33APPPK8024C1Z2/2017-18 dated 14.07.2025 from the file of the respondent herein, quash the same.

PRAYER in W.P.No.33310 of 2025: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records of the impugned assessment order in Ref.No.ZD331223187346F dated 23.12.2023 under Section 73 of the CGST/TNGST Act, 2017 and uploaded the same along with the summary of order in DRC-07 for the financial Year 2017-18 from the files of the respondent herein, quash the same.

For Petitioner(s) in both W.Ps.	: Ms.Aparna Nandakumar
For Respondent(s) in both W.Ps.	: Mr.C.Harsha Raj Special Government Pleader

COMMON ORDER

By consent of learned counsel on both sides, these writ petitions are taken up for final disposal at the admission stage itself.

2. The writ petition in W.P.No.33306 of 2025 is filed praying for a writ of Certiorari challenging the impugned recovery notice issued by the 1st respondent in DRC-13 in Ref.No.GSTIN-33APPPK8024C1Z2/2017-18 dated 14.07.2025 and the writ petition in W.P.No.33310 of 2025 is filed challenging the impugned assessment order dated 23.12.2023 relating to the assessment year 2017-18.

3. It is submitted by the learned counsel for petitioner that petitioner is engaged in the business of construction of pre-fabricated structures under works contract services and registered under the Goods and Services Tax Act, 2017.

During the relevant period 2017-18, petitioner filed their returns and paid appropriate taxes. However, on verification of the returns it was *inter-alia* noticed that there was alleged mismatch between GSTR 2A and 3B.

4. Pursuant thereto, a notice in DRC-01A was issued on 28.09.2023 and show cause notice in DRC-01 was issued on 30.09.2023, followed by two reminder notices dated 23.11.2023 and 30.11.2023 However, 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 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, petitioner was unaware of the impugned proceedings and was thus unable to participate in the adjudication proceedings. It is submitted by the learned counsel for petitioner that if the petitioner is provided with an opportunity, they would be able to explain the alleged discrepancy. It is further submitted that subsequent to the passing of the impugned order, an appeal was also preferred , however, the same was rejected by the appellate authority on the ground that the appeal was filed beyond the statutory period.

5. Learned counsel for petitioner would then place reliance on the 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. Agreed to by the learned Special Government Pleader for respondent.

5.1. She would further submit that in this case as a matter of fact more than 40% of disputed tax have already been paid, despite which there has been recovery proceedings by way of bank attachment as well as garnishee proceedings initiated against petitioner. She would submit that the above recovery proceedings may be set aside.

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

a) The impugned order dated 23.12.2023 and recovery notice dated 14.7.2025 are 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., payment of 25% of disputed taxes is not complied or objections are not filed 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.

09.09.2025

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

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Commercial Tax Department,
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2.The Assistant Commissioner (ST),
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46, III Floor, Greenways Road,
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MOHAMMED SHAFFIQ, J.

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