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.33056 of 2025
and
W.M.P. Nos.37097 and 37098 of 2025

Zeemrah Energy
Rep. by Abdul Hafeez Mohammed Rameez,
Proprietor
2/796, Ground Floor, Sakshi Towers,
1st Main Road, Chennai 600 004. ... Petitioner

Vs.

The Assistant Commissioner (ST),
Royapettah Assessment Circle,
South Tower, Nandanam, Chennai. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent's order dated 04.02.2025 in GSTIN Number (33ANTPM8947N1ZX) pertinent to the assessment year 2017-2018 and quash the same and consequently direct the respondent to redo the fresh assessment.

For Petitioner : Mr.K.Narayanan

For Respondent : Ms.Amritha Dinakaran
Government Advocate

ORDER

By consent of both sides, this writ petition is taken up for final disposal at the stage of admission itself.

2. The present writ petition is filed challenging the impugned order dated 04.02.2025 relating to the assessment year 2017-18.

3. It is submitted by the learned counsel for the petitioner that the petitioner is a company registered under the Goods and Services Tax Act, 2017. During the relevant period of 2017-18, petitioner filed its returns and paid the appropriate taxes. However, on verification of the returns it was *inter alia* found that there was a Output Mismatch (GSTR3B).

4. Pursuant thereto, a notice in DRC-01A was issued on 27.07.2024, another notice in DRC-01 was issued on 31.12.2024, followed by two reminder notices dated 31.07.2024 and 11.09.2024 with personal hearing on 09.08.2024 and 18.09.2024. In response, petitioner filed its reply dated 09.08.2024 and 16.08.2024. However, the respondent did not accept the reply filed by petitioner on the premise that petitioner have not filed or uploaded TRAN-1 filed details

and thus confirmed the proposal. It is submitted by the learned counsel for the petitioner that the personal hearing notices and the impugned order of assessment has not 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.

5. 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.

6. 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.

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

a) The impugned order dated 04.02.2025 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., 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.

8. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

01.09.2025

Speaking (or) Non Speaking Order
Index : Yes/ No
Neutral Citation: Yes/No
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<u>MOHAMMED SHAFFIQ, J.</u>

spp

To:

The Assistant Commissioner (ST),
Royapettah Assessment Circle,
South Tower, Nandanam, Chennai.

<u>W.P. No.33056 of 2025</u>

01.09.2025