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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2025

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.34239 of 2025
and
W.M.P.Nos.38382 and 38384 of 2025

Tvl. M D S Construction,
Represented by its proprietor Mr.S.Sakthi Murugan,
Survey No.60/6B, Mela Nedumbur,
Mela Vanniyur Post,
Cuddalore, Tamil Nadu 608 302.
GSTIN: 33KALPS2765H1Z5 .. Petitioner

Vs.

The State Tax Officer,
Office of the Commercial Tax Officer,
Chidambaram-II Assessment Circle,
Cuddalore, Tamil Nadu. .. Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for records of the respondent herein in its impugned order passed by the respondent order in GSTIN:33KALPS2765H1Z5/2023-2024 dated 03.02.2025 along with the Consequential order in Form DRC-07 bearing Reference No.ZD330225011925P dated 03.02.2025 for the period 2023-2024 and quash the same.

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For Petitioner : Ms.R.Hemalatha

For Respondent : Mr.T.N.C.Kaushik
Additional Government Pleader

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 03.02.2025 relating to the assessment year 2023-24.

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 2023-24, petitioner filed its returns and paid appropriate taxes. However, on verification of the returns it was *inter-alia* noticed that there was a discrepancy between GSTR 3B and GSTR 7.

4. Pursuant thereto, an intimation notice in Form ASMT-10 was issued to the petitioner on 11.09.2024, followed by a show cause notice

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in DRC-01 dated 26.11.2024. Thereafter, three reminder notices dated 26.12.2024, 06.01.2025 and 11.01.2024 with personal hearing on 31.12.2024, 09.01.2025 and 22.01.2024. However, the petitioner had not responded to any of the above notices, the impugned order dated 03.02.2025 was thus passed confirming the proposal. It is submitted by the learned counsel for the 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 in the GST Portal, thereby, 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 discrepancies.

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

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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 Additional Government Pleader 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 03.02.2025 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

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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

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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.

11.09.2025

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

To:

The State Tax Officer,
Office of the Commercial Tax Officer,
Chidambaram-II Assessment Circle,
Cuddalore, Tamil Nadu.

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MOHAMMED SHAFFIQ, J.

spp

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11.09.2025

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