IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2025

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.34148 of 2025
and
W.M.P. Nos.38297 and 38299 of 2025

M/s Akash Enterprises
Represented by its Proprietor,
Mr. Dinesh No-120/16, NA,
Govindappa Naicken Street, Chennai
600001.

Petitioner(s)

Vs

1.The Deputy Commissioner(CT),
GST Appeal I, Annexe Building,
3rd Floor, No.1 Greams Road,
Chennai 600 006.

2.The Deputy State Tax Officer,
Proper Officer/Deputy Commercial Tax Officer,
Kothawalchavadi Assessment Circle,
Integrated Commercial Taxes Office Complex,
3rd Floor, Room No.313, No.32,
Elephant Gate Bridge Road, Vepery, Chennai-03.

3.The Assistant Commissioner,
Kothawalchavadi Assessment Circle,
Integrated Commercial Taxes Office Complex,
3rd Floor, Room No.313, No.32,
Elephant Gate Bridge Road, Vepery, Chennai-03.

Respondent(s)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari to call for records of the impugned order in TN-GST/ 33BHRPD0772P1ZX/2019-2020 dated 21.06.2024 along with DRC-07 Order under Section 73, Ref No. ZD330624194749T dated 21.06.2024, on the file of the Second Respondent herein and the quash the same as illegal, ar-bitrary against the principle of natural justice and against the law.

For Petitioner(s) : Mr.J.Poojesh

For Respondent(s) : Mr.C.Harsha Raj
Special Government Pleader

ORDER

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

2. The present writ petition is filed challenging the impugned order dated 21.06.2024 relating to the assessment year 2019-20.

3. It is submitted by the learned counsel for petitioner that petitioner is engaged in the business of Electrical Switches and wires and is registered under the Goods and Services Tax Act, 2017. During the relevant period 2019-20, petitioner filed their returns and paid appropriate taxes. However, on verification of the returns, it was noticed that there was alleged mismatch between GSTR 3B and 2A.

4. Pursuant thereto, ASM-10 notice was issued on 13.05.2022, a show cause notice in DRC-01 was issued on 20.05.2024, followed by personal hearing notice on 11.06.2024. Petitioner filed their reply on 11.06.2022 however, the impugned order was thus passed confirming the proposal. It is further 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. Aggrieved, petitioner preferred a writ petition in W.P.No.34145 of 2025 challenging the rejection order in Form GST APL-02 dated 23.07.2025, however, the same has been withdrawn.

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 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. It is stated that petitioner has made payment of 10% of disputed tax as pre-deposit and requests that the same may be adjusted towards 25% of the disputed tax. 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 21.06.2024 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.

12.09.2025

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

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<u>MOHAMMED SHAFFIQ, J.</u>

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<u>W.P. No.34148 of 2025</u>

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