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.34335 of 2025
and
W.M.P. Nos.38499 and 38503 of 2025

M/s.Manmandir Silks and Sarees
Represented by its Partner
Mr. Ashok Kumar Jain,
No.32, Platinum Khader Nawaz Khan Road,
Nungambakkam, Chennai 600 006

Petitioner(s)

Vs.

1.The Deputy Commissioner (ST)
GST Appeals,
Chennai-I, No.1, PAPJM Buildings (Annex),
Third Floor, Greams Road,
Chennai-600 006.

2.The Assistant Commissioner ST,
Nungambakkam, Assessment Circle,
Mrs.K.Sumathi, No.88,
Mayor Ramanathan Salai, Chetpet,
Chennai-600 031.

Respondent(s)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records on the file of the 2nd respondent passed in GSTIN:33AALFM6070DIZG/2019-20 dated 24.08.2023 and consequential order under Section 73 and Summary of the Order in Form GST DRC-07 having Ref No.ZD330823141655D dated 24.08.2023 for the FY 2019-20 and quash the same as illegal, contrary to the provisions of the Act, arbitrary and against the principles of natural justice.

For Petitioner(s) : Mr.Srenik S Jain

For Respondent(s) : Mrs.R.Vasanthamala
Government Advocate

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 24.08.2023 relating to the assessment year 2019-20.

3. It is submitted by the learned counsel for petitioner that petitioner is a firm 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 the following discrepancies were *inter-alia* noticed:

i) Mismatch between GSTR 3B and 1;

ii) Interest and penalty under Section 122(2) of the TNGST/CGST Act

2017.

4. Pursuant thereto, petitioner submitted a reply on 29.03.2023 along with documentary evidence, however, a show cause notice in DRC-01 was issued on 07.06.2023 without considering the same. Thereafter, impugned order was passed confirming the proposal. It is submitted by the learned counsel for petitioner that neither the show cause notice 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, 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 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 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, to which the learned Government Advocate appearing for respondents 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 24.08.2023 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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MOHAMMED SHAFFIQ, J.

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