WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.09.2025

Coram:

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.34461 of 2025
and W.M.P.Nos.38609 & 38610 of 2025

K.Ganesh

...Petitioner

Versus

The State Tax Officer – 1, Review,
(also known as the Commercial Tax Officer),
Office of the Joint Commissioner (ST),
Chengalpattu Intelligence,
Station: No.870/2A, 1st Floor, Kanchipuram,
High Road, Thimmavaram Post,
Chengalpattu – 603 101.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records on the files of the respondent herein in GSTIN/33AFGPG4212H1ZO/2021-22 in Form GST DRC-07 in Order Reference No.ZD330325139098F dated 19.03.2025 and quash the same.

For Petitioner : Ms.S.Vishnupriya

For Respondent : Mr.V.Prashanth Kiran,
Government Advocate (Tax)

https://www.mhc.tn.gov.in/judis

WEB COPY

ORDER

Mr.V.Prashanth Kiran, learned Government Advocate (Tax) takes notice for the respondent.

2. The present writ petition has been filed by the petitioner challenging the Order in Form GST DRC-07 dated 19.03.2025 passed by the respondent.

3. The learned counsel for the petitioner submitted that the petitioner is engaged in works contract services for the government entities viz., Tamil Nadu Transmission Corporation Ltd. and Tamil Nadu Generation & Distribution Corporation Ltd. The petitioner has been duly filing his returns and paying all the statutory taxes. However, on scrutiny of the returns filed by the petitioner for the year 2021-22, following discrepancies were *inter-alia* noticed:

(i) Difference between Table 8-A and 8-B of GSTR9

(ii) Wrongly availment of ITC claimed and liable for reversal (Cess)

(iii) Turnover difference between GSTR-7 Vs. GSTR-3B

https://www.mhc.tn.gov.in/judis

WEB COPY

(iv) TDS Credit Received

(v) ITC Claim details

(vi) ITC Availed on Blocked Credit under Section 17(5)

(vii) ITC Reversal due to non-payment within 180 days

(viii) Tax Payable under RCM on the Expenses in the Balance Sheet and Profit & Loss Account

(ix) Assets – Loan and Advances

Hence, the respondent issued an Intimation Notice in Form GST DRC-01A dated 19.06.2024 and a Show Cause Notice in Form GST DRC-01 dated 11.07.2024, followed by Reminder Notices dated 12.08.2024, 13.08.2024 & 04.09.2024. In response to the Show Cause Notice issued by the respondent, the petitioner submitted his detailed Reply in Form GST DRC-06 dated 13.09.2024. However, without considering the petitioner's reply, the respondent has passed the impugned order of assessment dated 19.03.2025 along with summary of the order in Form GST DRC-07 dated 19.03.2025, confirming the demands proposed in the Show Cause Notice and directing the petitioner to pay the demand of Rs.94,77,196/- comprising tax, interest and penalty. The impugned order thus suffers from non-application of mind to material on record and stands vitiated.

https://www.mhc.tn.gov.in/judis

WEB COPY

3.1. The learned counsel for the petitioner has placed reliance on the order passed by 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 in similar circumstances, this Court has remanded the matter back to the respondent, subject to the payment of 25% of the disputed tax by the petitioner therein.

3.2. The learned counsel for the petitioner further submitted that the petitioner is ready and willing to pay 25% of the disputed tax amount and that one final opportunity may be granted to the petitioner to put forth his objections to the proposal before the Adjudicating Authority, to which, the learned Government Advocate (Tax) appearing for the respondent does not have any serious objection.

4. By consent of the learned counsel on both sides, this Writ Petition stands disposed of on the following terms:

(a) The impugned order in Form GST DRC-07 dated 19.03.2025 passed by the respondent is quashed.

https://www.mhc.tn.gov.in/judis

WEB COPY

(b) The petitioner shall deposit 25% of the disputed tax as agreed by the learned counsel for the petitioner, within a period of four weeks from the date of uploading of web copy of this order without waiting for the receipt of a certified copy of this order.

(c) If any amount has been recovered or paid out of the disputed tax, 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 intimate the balance amount out of 25% of disputed tax to be paid, if any, within a period of one week from the date of uploading of web copy of this order without waiting for the receipt of a certified copy of this order. 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 tax within a period of four weeks from the date of uploading of web copy of this order shall result in restoration of the impugned order of assessment.

(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 that the petitioner shall pay 25% of the disputed

https://www.mhc.tn.gov.in/judis

WEB COPY

tax, within a period of four weeks from the date of uploading of web copy of this order.

(f) On complying with the above condition, the impugned order of assessment shall be treated as Show Cause Notice and the petitioner shall submit his objections along with supporting documents/material, within a period of four weeks from the date of compliance of the conditions relating to deposit in Clauses (b) and (c) *supra*. If any such objections are filed, the respondent shall consider the same and pass orders, in accordance with law, after affording a reasonable opportunity of hearing to the petitioner.

(g) It is made clear that if the above conditions viz., payment of 25% of disputed tax is not complied or objections are not filed within the stipulated time as stated above, the impugned order of assessment shall stand restored.

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

15.09.2025

mrr
Index : Yes/No
Speaking Order (or) Non-Speaking Order

https://www.mhc.tn.gov.in/judis

WEB COPY

To

The State Tax Officer – 1, Review,
(also known as the Commercial Tax Officer),
Office of the Joint Commissioner (ST),
Chengalpattu Intelligence,
Station: No.870/2A, 1st Floor, Kanchipuram,
High Road, Thimmavaram Post,
Chengalpattu – 603 101.

https://www.mhc.tn.gov.in/judis

WEB COPY

MOHAMMED SHAFFIQ, J.

mrr

W.P.No.34461 of 2025

15.09.2025

https://www.mhc.tn.gov.in/judis