IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2025

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.34601 of 2025
and
W.M.P.Nos.38781 and 38783 of 2025

M/s.Sekar Constructions,
Represented by its Proprietor A.Sekar,
No.11/33, Chengam Road,
Thiruvannamalai 606 603. .. Petitioner

Vs.

1. The Deputy Commissioner (ST),
   Thiruvannamalai CT District,
   Integrated Commercial Taxes Buildings,
   Collectorate Master Plan Complex,
   Vengikal, Thiruvannamalai 606 604.

2. The Assistant Commissioner (ST)(FAC),
   Thiruvannamalai II Assessment Circle,
   Integrated Commercial Taxes Buildings,
   2nd Floor, Vengikal,
   Collectorate Master Plan Complex,
   Thiruvannamalai 606 604.

3. The Branch Manager,
   Tamil Nadu Mercantile Bank Ltd.,
   91/106, Big Street,
   Thiruvannamalai 606 601. .. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of

India, praying to issue a Writ of Certiorari, calling for records of the second respondent in his proceedings in GSTIN:33AYMPS8160P1ZJ/2019-20 – Tax Period: April 2019 to March 2020, quash the order dated 27.08.2024 passed therein.

For Petitioner : Mr.P.V.Sudakar

For Respondent : Mr.Harsha Raj
Special 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 27.08.2024 relating to the assessment year 2019-20.

3. It is submitted by the learned counsel for the petitioner that the petitioner is a works contractor and is registered under the Goods and Services Tax Act, 2017. During the relevant period of 2019-20, petitioner filed its returns and paid the appropriate taxes. However, on verification of the returns filed by petitioner, it was *inter-alia* noticed that

there was a Input mismatch between GSTR 2A and GSTR 3B.

4. Pursuant thereto, a notice in DRC-01A was issued to the petitioner on 22.11.2023, followed by a notice in DRC 01 dated 25.05.2024. Reminder Notice dated 29.06.2024 was also issued to the petitioner. In response, petitioner filed its reply dated 25.11.2023. However, respondent did not accept the reply filed by petitioner on the premise that petitioner's reply is incorrect and thus confirmed the proposal vide impugned order dated 27.08.2024. 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 under "additional notices and orders" tab on 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 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. It is further submitted by the learned counsel for petitioner that pursuant to the impugned order of assessment, recovery proceedings were initiated and bank accounts have been attached and requests that the same may be lifted on payment of 25% of disputed taxes, to which the learned Special Government Pleader appearing for the 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 27.08.2024 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.

11.09.2025

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

To:

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MOHAMMED SHAFFIQ, J.

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