IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.09.2025

Coram:

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.34989 of 2025
and W.M.P.Nos.39132 & 39133 of 2025

Tvl.Gokul Enterprises,
Rep. by its Proprietor Mr.R.Gokul,
286 B, Telugu Brahmin Street,
Coimbatore,
Tamil Nadu – 641 001.

...Petitioner

Versus

1.The Commercial Tax Officer,
RG Street Assessment Circle,
Coimbatore, Tamil Nadu.

2.The State Tax Officer (FAC),
GST Audit Team – II,
Office of the Joint Commissioner (ST),
C.T.Buildings, Dr.Balasundaram Road,
Coimbatore, Tamil Nadu – 641 018.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari to call for the records of the impugned assessment order in Ref.ZD331223269593D dated 30.12.2023 under Section 73 of the CGST/TNGST Act, 2017 and uploaded the same along with the summary of order in DRC-07 for the Financial Year 2017-18 from the files of the 1st respondent herein, quash the same.

For Petitioner	:	Ms.G.Kumudha
For Respondents	:	Mrs.P.Selvi, Government Advocate (Tax)

ORDER

Mrs.P.Selvi, learned Government Advocate (Tax) takes notice for the respondents.

2. The present writ petition has been filed by the petitioner challenging the Assessment Order dated 30.12.2023 along with the summary of order in Form GST DRC-07 passed by 1st respondent.

3. The learned counsel for the petitioner submitted that the petitioner is a proprietorship concern dealing with retail, wholesale and warehousing of camphor. The petitioner has been duly filing their returns and paying all the statutory taxes. However, on scrutiny of the returns filed by the petitioner for the year 2017-18, it was found that there is mismatch between GSTR-3B Vs. GSTR-1 and GSTR-3B Vs. GSTR-2A. Hence, 2nd respondent issued a Pre-Show Cause Notice in Form GST DRC-01A dated

23.09.2023 and Show Cause Notice in Form GST DRC-01. However, the petitioner did not submit any reply to the Show Cause Notice. Therefore, 1st respondent has passed the impugned Assessment Order dated 30.12.2023 along with summary of order in Form GST DRC-07 dated 30.12.2023, confirming the demands proposed in the Show Cause Notice and directing the petitioner to pay the demand of Rs.41,76,286/- comprising tax, interest and penalty.

3.1. It is submitted by the learned counsel for the petitioner that both the Show Cause Notice and the impugned Assessment Order had not been served to the petitioner either by tender or by way of RPAD, instead, the same had been uploaded in "View Additional Notices and Orders" tab of GST portal and thus, the petitioner was unaware of the proceedings initiated by respondent-Department and was also unable to participate in the adjudication proceedings. It is also submitted by the learned counsel for the petitioner that if the petitioner is provided with an opportunity, the petitioner would be able to explain the alleged discrepancies.

3.2. 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.

3.3. 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 their objections to the proposal before the Adjudicating Authority, to which, the learned Government Advocate (Tax) appearing for the respondents 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 Assessment Order dated 30.12.2023 along with the summary of order in Form GST DRC-07 passed by 1st respondent is quashed.

(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 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 their 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). If any such objections are filed, 1st 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

To

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MOHAMMED SHAFFIQ, J.

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