IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.01.2025

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THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

W.P.No.40058 of 2024
and W.M.P.Nos.43335 & 43336 of 2024

M/s.PRS Industries,
Represented by its Proprietor Mr.Venkatachalam,
Plot No.123, 7th Link Street, Nehru Nagar, Kottivakkam
Chennai 600 096. ... Petitioner

Vs.

The Deputy State Tax Officer,
Thiruvanmiyur Assessment Circle,
Integrated Commercial Taxes and Registration Department,
2nd Floor, Nandanam,
Chennai 600 035. ...Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the respondent in Annexure Show Cause Notice to Form GST DRC-01 dated 27.09.2023 and the consequential digitally unsigned order issued u/s.73 in GSTIN: 33AWCPV0124C1Z5/2017-18 along with summary of order issued in Form GST DRC-07 dated 30.12.2023 and quash the same as ultravirus and further direct the respondent to refunding the amount of Rs.6,40,560/- on 25.06.2024 vide transaction No.A734071 recovered from the partnership account of Union Bank of India.

For Petitioner	:	Mr.V.Sundareswaran
For Respondent	:	Mr.C.Harsha Raj, Additional Government Pleader

ORDER

The present Writ Petition is filed challenging the impugned order dated 30.12.2023 relating to the assessment year 2017-18, on the ground of violation of principles of natural justice.

2. It is submitted by the learned counsel for the petitioner that the petitioner is a proprietorship firm and was issued with the certificate of registration on 02.08.2018 with effect from 01.07.2017. The petitioner is engaged in Civil Works. The petitioner was also a partner in a partnership firm which carried on business in the name of M/s.PRS Industries with registration No.33AAVFP4243P1ZJ, issued on 23.04.2018 effective from 01.03.2018. The petitioner's registration certificate was cancelled on 12.07.2021, and the due was disclosed and shown as "0" (Nil) in the proprietorship concern in 2018. During the relevant period viz., 2017-18, the petitioner filed GSTR-01, which contained certain duplication. The same was rectified and the correct taxable

value of supplies was reported while filing the monthly return and also the annual return. However, the impugned order has been passed on the premise that there is difference between GSTR-1 and GSTR-3B, in view of the duplication contained in the outward statement in GSTR-1. 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 discrepancies.

3. The learned counsel for the petitioner would then 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.

4. It was further submitted by the learned counsel for the petitioner that subsequent to the passing of the impugned order, the petitioner has already remitted more than 70% of disputed taxes in excess of the admitted tax and his only request is that the same may be adjusted towards 25% of the disputed tax, to which, the learned Additional Government Pleader appearing for the respondent does not have any serious objection.

5. By consent of both parties, the writ petition stands disposed of on the following terms:

a) The impugned order dated 30.12.2023 is set aside.

b) The petitioner shall deposit 25% of the disputed taxes as admitted by the learned counsel for the petitioner and the respondent, within a period of four weeks from the date of receipt of a copy of this order.

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 receipt of a copy of this order. The petitioner shall deposit such remaining sum within a period of three weeks from such intimation.

d) The entire exercise of verification of payment, if any, intimation of the balance sums, if any, to be paid for compliance with the direction of payment of

25% of the disputed taxes, after deducting the sums already paid and payment by the petitioner of the balance amount, if any, on intimation in compliance with the above direction shall be completed within a period of four weeks from the date of receipt of copy of this order.

e) 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 receipt of a copy of this order shall result in restoration of the impugned order.

f) 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.

g) 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 receipt of a copy of this order 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., 25% of disputed taxes is not complied or objections are not filed within the stipulated period, four weeks respectively from the date of receipt of a copy of this order, the impugned order of assessment shall stand restored.

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

06.01.2025

Index : Yes / No
Internet : Yes/ No
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To

The Deputy State Tax Officer,
Thiruvanmiyur Assessment Circle,
Integrated Commercial Taxes and Registration Department
2nd Floor, Nandanam,
Chennai 600 035.

MOHAMMED SHAFFIQ, J.

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