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.74 of 2025
and W.M.P.Nos.83 & 84 of 2025

Tvl. Sri Hari Builders,
Represented by its Proprietor Mr.H.Dineshraj,
No.1, 1st Floor, New Street, Iyyappa Nagar,
Madipakkam, Chennai 600 091. ... Petitioner

Vs.

The Deputy State Tax Officer – 1,
Madipakkam Assessment Circle,
No.571, Integrated Commercial Taxes and Registration Department,
(South Tower), Room No.233, 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 Certiorari, to call for the records of the respondent in Order dated 19.08.2024 in GSTN 33BIYPD5391J1ZQ/2019-20 and quash the same as illegal, arbitrary and in violation of principle of natural justice.

For Petitioner : Ms.C.Rekhakumari

For Respondent : Mr.V.Prashanth Kiran,
Government Advocate

ORDER

The present Writ Petition is filed challenging the impugned order dated 19.08.2024 passed by the respondent relating to the assessment year 2019-2020.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in the business of supplying paving blocks, slabs, bricks, titles and other articles of pressed or moulded glass etc., used for building or construction purposes and is registered under the Goods and Service Tax, 2017. During the relevant period 2019-2020, the petitioner had filed its returns and paid the appropriate taxes. Whileso, on verification of the returns filed by the petitioner, it was noticed that there were certain discrepancies between GSTR-3B and GSTR-2A.

3. It is submitted by the learned counsel for the petitioner that an intimation notice in Form DRC-01A was issued to the petitioner on 22.07.2022, followed by a show cause notice in Form DRC-01 on 27.05.2024 and three

reminder notices were issued to the petitioner. Thereafter, the personal hearing opportunities were also granted to the petitioner. However, the petitioner had neither filed its reply nor availed an opportunity of personal hearing. 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 in the "view 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 the petitioner that if the petitioner is provided with an opportunity, they would be able to explain the alleged discrepancies.

4. The learned counsel for the petitioner would place reliance upon the recent judgment of this Court in the case of **Sree Manoj International Vs. Deputy State Tax Officer in W.P.No.10977 of 2024 dated 25.04.2024**, to submit that this court has remanded the matter back in similar circumstances subject to payment of 10% of the disputed taxes.

5. It was further submitted that the petitioner is ready and willing to pay 10% 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 the respondent does not have any serious objection.

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

a) The impugned order dated 19.08.2024 is set aside.

b) The petitioner shall deposit 10% 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 10% of disputed taxes directed to be paid. The assessing authority shall then intimate the balance amount out of 10 % 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 10% 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 10% 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 10 % 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., 10% 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.

7. 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 – 1,
Madipakkam Assessment Circle,
No.571, Integrated Commercial Taxes and Registration Department,
(South Tower), Room No.233, 2nd Floor,
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MOHAMMED SHAFFIQ, J.

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