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.25 of 2025
and W.M.P.Nos.26 & 28 of 2025

Tvl. N Dot Dorwin Facade Solutions Private Limited,
Rep. By its Authorised Signatory,
Mr.P.S.Prasanna Subramanian,
No: 20, 2nd Floor,
12th Main Road,
Anna Nagar,
Chennai 600 040. ... Petitioner

Vs.

The Assistant Commissioner,
Amaindakarai Assessment Circle,
F-50, 2nd Floor,
1st Avenue, Anna Nagar East,
Chennai 600 102. ...Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent in GSTIN: 33AAECN5480A1ZU /2018-2019 dated 30.04.2024 and quash the same and consequently direct the respondent to give an opportunity of personal hearing.

For Petitioner : Mr.M.Desingu
For Respondent : Mr.V.Prashanth Kiran,
Government Advocate

ORDER

The present writ petition is filed challenging the impugned order dated 30.04.2024 passed by the respondent relating to the assessment year 2018-19.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in the business of facade works and is registered under the Goods and Service Tax Act, 2017. However, on examination of the information furnished in the return filed by the petitioner under various heads and also the information furnished in GSTR-01, GSTR-2A, GSTR-3B and other records available in the department, the following discrepancies were noticed:

(i) Under declaration of output tax

(ii) Excess claim of input tax credit

(iii) Input tax reversed on non-business transactions and exempt supplies

(iv) Under declaration of ineligible input tax credit

3. The learned counsel for the petitioner submitted that the petitioner had submitted its replies on 07.03.2024, 19.03.2024 and 30.04.2024. On considering the replies filed by the petitioner, the first two defects namely mismatch between GSTR-1 and GSTR-9 and excess claim of input tax credit were considered and dropped in the proceedings. The proposal in respect of alleged claim of input tax credit on non-business transactions and exempt supplies and ineligible input tax credit were confirmed. Further, he would submit that they were unable to explain the discrepancies with supporting documents, if they are granted one more opportunity, they would be able to demonstrate their entitlement to ITC.

4. 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.

5. 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, which was not objected to by the learned Government Advocate for the respondent.

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

a) The impugned order dated 30.04.2024 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.

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 Assistant Commissioner,
Amaindakarai Assessment Circle,
F-50, 2nd Floor,
1st Avenue, Anna Nagar East,
Chennai 600 102.

MOHAMMED SHAFFIQ, J.

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