IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.01.2025

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THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

W.P.No.132 of 2025
and W.M.P.Nos.147 & 148 of 2025

Mr.Kumanan Ramesh Kumar,
Prop: Srivathsan Enterprises,
9/493, B-Type, SIDCO Nagar,
Villivakkam, Chennai 600 049. ... Petitioner

Vs.

The Commercial Tax Officer,
Villivakkam Assessment Circle,
No.15 & 16, 100 Feet Road, Malligai Avenue,
Kolathur, Chennai 600 099. ...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 the records of the respondent in order reference no. ZD330724270185E dated 23.07.2024 for the FY 2018-19, set aside the same, direct the respondent to pass assessment order in the light of the detail provided in ARN: AD330624043398Z dated 26.06.2024.

For Petitioner : Mr.R.Swarnavel
For Respondent : Mr.V.Prashanth Kiran,
Government Advocate

ORDER

The present Writ Petition is filed challenging the impugned order dated 23.07.2024 passed by the respondent relating to the assessment year 2018-2019, whereby the petitioner's rectification petition filed under Section 161 of the TNGST Act was rejected, on the premise that it is suffers from manifest arbitrariness.

2. The petitioner is engaged in the execution of works contract for the assessment year 2018-19 and is registered under the Goods and Service Tax Act, 2017. During the relevant period 2018-19, the petitioner had filed its returns and paid the appropriate taxes. The petitioner during the relevant period had executed works contract to various Government Departments, on which TDS were deducted by such Departments. On verification of the data available with the department website, it was noticed that the taxpayer had effected outward supplies to Madras Metropolitan Water Supply and Sewage Board, which was not disclosed in GSTR-3B return. A notice in Form ASMT-10

followed by a show cause notice in Form DRC-01 dated 28.12.2023 was issued, proposing to treat the difference between GSTR-3B and GSTR-7 as escaped value of taxable supplies. The petitioner did not submit any reply, proposal was thus confirmed. On receipt of the above order of adjudication dated 06.04.2024, the petitioner filed rectification petition under Section 161 of the Act, wherein it was submitted that the impugned order has been passed without verifying the GSTR-9 return, wherein the value of supply alleged to have not been disclosed, was also reflected/disclosed and would thus submit the impugned order suffered from error apparent on the face of record inasmuch as it is contrary to GSTR-9. However, the impugned order has been passed *inter alia* on the premise that the rectification petition attempts to contest the orders and decision of the proper officer which are detrimental to Revenue. Apart from the fact that it also noticed that the petitioner had not filed sufficient proof of evidence of any error apparent on the face of record with regard to the impugned order dated 06.04.2024.

3. The learned counsel for the petitioner submitted that what was required to be examined is GSTR-9, if only the respondent had examined the same, it would be evident that the impugned order of adjudication suffers from error apparent on the face of the record.

4. On this being pointed, the learned Government Advocate appearing for the respondent would submit that the rectification petition would be considered afresh order passed within a stipulated time frame, after affording the petitioner a reasonable opportunity of hearing.

5. In view thereof, this Writ Petition stands disposed of by directing the respondent/authority to consider the rectification petition dated 26.06.2024 filed by the petitioner and pass appropriate orders on merits and in accordance with law, within a period of eight (8) weeks from the date of receipt of a copy of this order, after affording a reasonable opportunity of hearing to the petitioner. No costs. Consequently, connected Miscellaneous Petitions are closed.

07.01.2025

Index : Yes / No
Internet : Yes/ No
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To

The Commercial Tax Officer,
Villivakkam Assessment Circle,
No.15 & 16, 100 Feet Road, Malligai Avenue,
Kolathur, Chennai 600 099.

MOHAMMED SHAFFIQ, J.

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W.P.No.132 of 2025

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