



W.P. No.226 of 2025

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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.226 of 2025

and

W.M.P. Nos.250 and 252 of 2025

Tvl.Sai Combines (GSTIN:33AAEPE0461H1ZB),
Represented by Mr.Kanniappan Eswara Babu, Proprietor,
No.63, Jermiah Road, Purasawakkam,
Chennai-600 007. ... Petitioner

Vs.

1.Deputy Commercial Tax Officer,
Purasawakkam Zone-IV,
No.1, PAPJM Annexure Building,
3rd Floor, Greams Road,
Chennai-600 006.

2.Assistant Commissioner (ST)(FAC),
Purasawakkam Assessment Circle,
No.1, PAPJM Annexure Building,
3rd Floor, Greams Road,
Chennai-600 006.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order ZD3306230964961 dated 21.06.2023 along with its summary in Form GST DRC-07 bearing Reference No.ZD3306230964961 dated 21.06.2023 passed by the 1st Respondent and quash the same as illegal and



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consequently direct the 2nd Respondent to withdraw the consequential recovery notice dated 29.10.2024.

For Petitioner : Mr.R.Parthasarathy

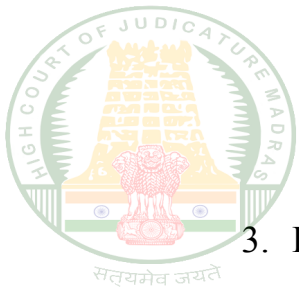
For Respondents : Mr.G.Nanmaran
Special Government Pleader

ORDER

The present writ petition is filed challenging the impugned order passed by the respondent dated 21.06.2023 relating to the assessment year 2019-20.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in the business of sales and service of IT products and is registered under the Goods and Services Tax Act, 2017. During the relevant period 2019-20, the petitioner filed its returns and paid the appropriate taxes. However, during the scrutiny of the petitioner's monthly return, the following discrepancies were noticed:

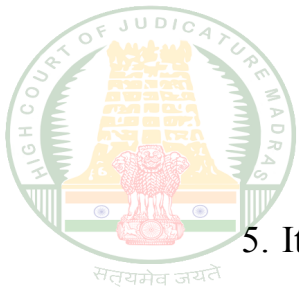
- i) Mismatch between GSTR 3B and GSTR 2A;
- ii) Mismatch between GSTR 1 and GSTR 7;
- iii) Interest for belated filing of returns and
- iv) Penalty for non-generation of e-way bill.



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3. It is submitted by the learned counsel for the petitioner that an intimation in ASMT-10 was issued on 13.06.2022, followed by a notice in DRC-01 on 10.01.2023 and reminder notices dated 03.02.2023 and 10.05.2023. However, the petitioner had neither filed its reply nor paid the disputed tax. 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 under “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 *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 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. It is further submitted that subsequent to the passing of the impugned order, an appeal was also preferred and payment of 10% of disputed tax was made as pre-deposit and his only request is that the same may be adjusted towards 25% of the disputed tax, to which the learned Special Government Pleader 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 21.06.2023 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



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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



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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 petition is closed.

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Speaking (or) Non Speaking Order

Index : Yes/ No

Neutral Citation: Yes/No

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To:

1. Deputy Commercial Tax Officer,
Purasawakkam Zone-IV,
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3rd Floor, Greams Road,
Chennai-600 006.
2. Assistant Commissioner (ST)(FAC),
Purasawakkam Assessment Circle,
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MOHAMMED SHAFFIQ, J.

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