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W.P.No.279 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2025

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.279 of 2025

and

W.M.P.Nos.319 and 320 of 2025

Tvl.Nobita Gift/N/Stationery

Represented by its Proprietor Mr.Jagadish Kumar T

..Petitioner

Vs.

The Deputy State Tax Officer (ST)/Deputy
Commercial Tax Officer,

N.S.C. Bose Road Assessment Circle

Station No.32, Integrated Commercial Taxes Office Complex,

Elephant Gate Bridge Road,

Chennai- 600 003

..Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorari, calling for records of the impugned order passed in GSTIN 33AGHPJ6488J1ZZ/2022-23 dated 21.06.2023 on the file of the respondent herein along with the consequential DRC-07 Order under Section 73, Ref No.ZD3306230891867 dated 21.06.2023 on the file of the respondent herein and quash the same as illegal, arbitrary against the principle of natural justice and



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against the law and pass orders.

For Petitioner : Mr.Poojesh J
For Respondent : 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 2017-18.

2. The petitioner is engaged in the business of granite and is a registered dealer under Goods and Services Act, 2017. During the relevant period, the petitioner had filed its return and paid appropriate taxes. However, on verification of the monthly returns, it was found that there was mismatch between GSTR -3B and GSTR-1.

2.1. Pursuant thereto, a notice in ASMT 10 was issued to the petitioner on 10.02.2023, followed by a notice in DRC-01A on 16.03.2023. A show cause notice in DRC 01 was issued to the petitioner on 28.03.2023. Further, personal hearing was offered on 12.05.2023. However, the petitioner had neither filed its



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reply nor availed the opportunity of personal hearing. Hence, the impugned order came to be passed, confirming the proposal.

3. 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*. It was further submitted that the petitioner is ready and willing to pay 25% of the disputed tax and that he 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, the petitioner had paid more than 90% of the disputed taxes and his only request is that the same may be adjusted towards the disputed tax, to which the learned Special Government Pleader appearing for the respondents does not have any serious objection, while seeking liberty to verify the correctness of the statement relating to remittance made by the petitioner.

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



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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 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 of 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



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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.



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

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Speaking (or) Non Speaking Order

Neutral Citation: Yes/No

mrn

To

The Deputy State Tax Officer (ST)/Deputy
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MOHAMMED SHAFFIQ, J.

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