IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2025

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.663 of 2025
and
W.M.P. Nos.812 and 813 of 2025

M/s.Sky Lab India,
Rep by its Proprietrix,
Mrs.Abdul Sahana,
No.25 , Mesabel Buildings,
Grey Town, Coimbatore-641 018 ... Petitioner

Vs.

1. The Deputy State Tax Officer - 1
P.N.Palayam Circle, Coimbatore 641 108.

2. The State Tax Officer
P.N.Palayam Circle,
Coimbatore 641 108. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the connected records pertaining to the impugned proceedings of the 1st and 2nd respondents herein made in GSTIN:33ERWPS7651L1ZP/2019-20 dated 21.08.2024 and quash the same as illegal or passing any other or orders deem fit in the circumstances of the case and thus render justice.

For Petitioner : Mr.Manoharan S.Sundaram

For Respondents : Ms.Amrita Dinakaran
Government Advocate

ORDER

The present writ petition is filed challenging the impugned orders dated 21.08.2024 passed by the respondents 1 & 2 relating to the assessment year 2019-20. While passing the order, the first respondent has levied interest for belated filing of returns and the second respondent passed the impugned order by levying tax on the premise that there was mismatch between GSTR-1 and GSTR-3B and also the Input Tax Credit has been availed beyond the period stipulated under Section 16(4) of the Tamil Nadu Goods and Service Tax Act.

2. The learned counsel for the petitioner submitted that subsequently a show cause notice in Form DRC-01 dated 26.05.2024 was issued to the petitioner through common GST portal. The petitioner had submitted its reply on 27.06.2024 and 18.07.2024 respectively. However, the reply was rejected on the premise that it was not supported by documentary evidence. Hence, the impugned orders came to be passed by the respondents, confirming the

proposals. 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.

3. The learned counsel for the petitioner would then 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.

4. 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.

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

a) The impugned orders dated 21.08.2024 are 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.

h) It is left open to the petitioner to raise all contentions including the waiver or any scheme which may be available granting immunity or concession to the petitioner. The respondent shall consider the same and pass appropriate orders.

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

31.01.2025

Speaking (or) Non Speaking Order
Index : Yes/ No
Neutral Citation: Yes/No
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To
1. The Deputy State Tax Officer - 1
P.N.Palayam Circle,
Coimbatore 641108.
2. The State Tax Officer
P.N.Palayam Circle,
Coimbatore 641 108.

MOHAMMED SHAFFIQ, J.

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