IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2025

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.782 of 2025
and
W.M.P.Nos.952 and 953 of 2025

Tvl.Sri Hari Builders,
Rep. by its Proprietor Mr.H.Dineshraj,
No.1, 1st Floor, New Street, Iyappa Nagar,
Madipakkam, Chennai 600 091. ..Petitioner

Vs.

The State Tax Officer,
Madipakkam Assessment Circle,
Integrated Commercial Taxes and
Registration Department,
(South Tower), Room No.233, 2nd Floor,
Anna Salai, Nandanam, Chennai 600 035. .. Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records of the respondent in order dated 31.08.2024 in GSTN 33BIYPD5391J1ZQ/2019-20 and quash the same.

For Petitioner : Ms.R.Darshita
for Ms.C.Rekhakumari

For Respondents : Ms.Amrita Dinakaran
Government Advocate

ORDER

The present writ petition is filed challenging the impugned order dated 31.08.2024 in GSTN 33BIYPD5391J1ZQ/2019-20, passed by the respondent on the premise that the same was made in violation of principles of natural justice.

2. It is submitted by the learned counsel for the petitioner that the petitioner is a registered dealer under the GST Act. During the relevant period of 2019-20, the petitioner had filed the returns and paid appropriate taxes. However, on examination of the information furnished in the return it was found that there was mismatch between GSTR 3B and GSTR 2A.

3. It is submitted by the learned counsel for the petitioner that an intimation in Form ASMT-10 was issued on 19.05.2022 followed by a notice in DRC-01 on 23.05.2024. Thereafter, a reminder notice dated 06.08.2024 with personal hearing was also issued to the petitioner. However, the petitioner had not responded to any of the above notices / intimation and thus the impugned order came to be passed. 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" column of the GST Portal, thereby, the petitioner was unaware of the initiated proceedings. It is submitted by the learned counsel for the petitioner that if the petitioner is provided with an opportunity, he would be able to explain the alleged discrepancy.

4. The learned counsel for the petitioner would 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.

5. It was further submitted that the petitioner is ready and willing to pay 10% 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, to which the learned Government Advocate 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 31.08.2024 is 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 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 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.

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

20.01.2025

Speaking (or) Non Speaking Order
Index:Yes/No
Neutral Citation: Yes/No
spp

To:

The State Tax Officer,
Madipakkam Assessment Circle,
Integrated Commercial Taxes and
Registration Department,
(South Tower), Room No.233, 2nd Floor,
Anna Salai, Nandanam, Chennai 600 035.

MOHAMMED SHAFFIQ, J.

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