IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2025

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.667 of 2025 and
W.M.P.Nos.817 & 818 of 2025

M/s.Agone Fire,
Represented By its Prop: Singaravel Sathishkumar,
No.5/556-B, Valluvar Nagar,
Annathanapatty, Salem 636 002. ...Petitioner

Vs.

Deputy State Tax Officer-1,
Annathanapatty Circle,
Salem. ...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorari, to call for the records relating to the Assessment Order under Reference Number ZD3308243106499 in GSTIN: 33EBLPS9373G2Z0/2019-20 dated 31-8-2024 and to quash the same as arbitrary, contrary to law and unsustainable in law and thus render justice.

For Petitioner : Mr.M.A.Mudimannan
For Respondent : Mrs.K.Vasanthamala
Government Advocate

ORDER

The present Writ Petition is filed challenging the impugned order dated 31.08.2024 passed by the respondent relating to the assessment year 2019-20.

2. It is submitted by the learned counsel for the petitioner that the petitioner is engaged and dealing with mechanical appliances for projecting, spraying liquids or powders, fire extinguishers, spray guns and similar appliances etc. During the relevant period 2019-20, the petitioner had filed its return and paid appropriate taxes. However, on scrutiny of the returns filed by the petitioner, it was noticed that there were differences between e-way bill and GSTR-1; and GSTR-3B and GSTR-1.

3. Subsequently, a notice in Form ASMT-10 dated 16.11.2021, followed by a notice in Form DRC-01A dated 27.05.2022 and a show cause notice in Form DRC-01 dated 29.08.2022 were issued to the petitioner through common portal. The petitioner had submitted its reply on 09.12.2022, stating that they have not generated e-way bill, which forms the subject matter of the show cause notice. It is also 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 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 tax demand.

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 parties, this 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 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.

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

21.01.2025

Speaking (or) Non Speaking Order
Neutral Citation: Yes/No
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To
Deputy State Tax Officer-1,
Annathanapatty Circle,
Salem.

MOHAMMED SHAFFIQ, J.

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W.P.No.667 of 2025

21.01.2025