IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2025

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. Nos.166 & 169 of 2025
and
W.M.P.Nos.170 & 171 of 2025 and 174 & 175 of 2025

M/s.Tamil Selvi Enterprises,
represented by its partner V.Dayalan,
No.87-A Alagiriswamy 7th Street,
Periyar Nagar, Vyasarpadi,
Chennai-600 039.

... Petitioner in both W.Ps

Vs.

1.The State Tax Officer,
Villivakkam Assessment Circle,
No1, PAPJM Building (Annexe),
2nd Floor, Greams Road,
Chennai-600 006.

2.The Deputy State Tax Officer-I,
Villivakkam Assessment Circle,
No1, PAPJM Building (Annexe),
2nd Floor, Greams Road,
Chennai-600 006.

... Respondents in both W.Ps

COMMON 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 1st respondent in his proceedings in GSTIN/33AAFFT7720B2Z]2019-20, quash the order dated 24.08.2024 and 07.12.2024 passed therein.

For Petitioner in both W.Ps : Mr.P.V.Sudakar

For respondents in both W.Ps : Ms.Amrita Dinakaran
Government Advocate for R1 & R2

COMMON ORDER

Since the issue involved and the relief sought in all these Writ Petitions are identical in nature, the same were heard together and disposed of vide this common order.

2.The present writ petitions are filed challenging the impugned orders passed by the respondents dated 24.08.2024 and 07.12.2024 relating to the assessment year 2019-20 on the ground that it suffers from non application of mind.

3. The petitioner is a Civil Work Contractor and is registered under GST Act 2017. During the relevant period 2019-20, the petitioner filed its returns and paid the appropriate taxes. However, on scrutiny of the petitioner's monthly return filed by the petitioner, the following discrepancies were noticed:

	GST	*SGST*	*IGST*	*CESS*
GSTR3B VS 1	265808	265808	0.00	0.00
GSTR3B VS 2A	13577	13577	0.00	0.00
GSTR1VS7	**790763**	**790763**	**0.00**	**0.00**

4. It is submitted by the learned counsel for the petitioner that insofar as the discrepancy relating to GSTR 1 Vs. GSTR 7, there was another notice which culminated in a order dated 28.08.2024, wherein it was found that the petitioner has already paid Rs.317473/- out of Rs.790763/-. In view of the alleged mismatch between GSTR 7 and GSTR 1 as could be seen from the following table in order dated 28.08.2024 :

S.No.	***Issue***	***Value of outward supply***		***Tax Rate***	***SGST***	***CGST***	***IGST***	***Cess***	***Total***
		Intra	***Inter***						
1	2	3a	3b	4	5	6	7	8	9
1	Outward supplies declared in GTR-07	13179375	0	12	790763	790763	0	0	1581526
2	Less outward Supplies declared in GSTR-01	7888172	0	12	473290	473290	0	0	946580
3	Difference (S.No. 1-S.No.2)	5291203	0	12	317473	317473	0	0	634946

Resultantly only a sum of Rs.317473/-, remains to be paid in view of alleged mismatch between GSTR 7 and GSTR 1. The petitioner admitted and also paid the taxes in respect of the other two issues.

5. 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.

6. 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 respondents does not have any serious objection.

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

a) The impugned orders dated 24.08.2024 & 07.12.2024 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 orders of assessment shall stand restored.

8. 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
vsn

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MOHAMMED SHAFFIQ, J.

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