IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2026

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.167 of 2026
and
W.M.P.Nos.187 and 188 of 2026

M/s.Sri Shakthi Engineering Works,
Represented by its Partner
C.K.Sivaraman. ... Petitioner

Vs.

The Assistant Commissioner,
Office of the Assistant Commissioner of GST and Central Excise,
Chennai North Commissionerate,
Thiruvika Nagar Division,
1st Floor, Newry Towers,
No.2054-I, Anna Nagar,
Chennai – 600 040. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records of the respondent in his proceedings in Order-in-Original No.12/2023(ST), quash the order dated 30.08.2023 passed therein for the Financial Year 2016-17.

For Petitioner : Mr.P.V.Sudakar

For Respondent : Mr.Sai Srujan Tayi
Senior Standing Counsel

ORDER

Mr.Sai Srujan Tayi, learned Senior Standing Counsel takes notice for the Respondent.

2. This Writ Petition is being disposed of at the stage of admission itself with the consent of the learned counsel for the Petitioner and the learned Senior Standing Counsel for the Respondent.

3. The Petitioner is before this Court against the impugned Order-in-Original No.12/2023-(ST) dated 30.08.2023. By the impugned order, the demand proposed in Show Cause Notice No.58/2021(ST) dated 22.10.2021 has been confirmed. Operative portion of the impugned order reads as under:-

> "*1.I confirm a demand of service tax (inclusive of all cess) of Rs.9,07,126 (Ninety Lakhs, seven thousand, one-hundred, twenty-six) From the Noticee under the proviso Section 73(2) of Finance Act, 1994.*
>
> *2.I order the Noticee to pay the appropriate interest on the amount confirmed at Sl.No.(1) above, under the provisions of Section 75 of Finance Act, 1994.*
>
> *3.I impose penalty of Rs.10000/- (Rupees Ten Thousand only) on the Noticee for not furnishing the service tax return for the period 2016-17(April 2016 to September 2016) under the provision of Section 77 of Finance Act, 1994.*
>
> *4.I impose penalty of Rs.10000/- (Rupees Ten*

Thousand only) on the Noticee for not furnishing the service tax return for the period 2016-17 (October 2016 to March 2017) under the provisions of Section 77 of Finance Act, 1994.

5.I impose a penalty of Rs.9,07,126/- (Nine Lakhs, seven thousand, one-hundred, twenty-six) on the Noticee under the provisions of Section 78 of the Finance Act, 1994 for non-payment of Service Tax. However, the amount of penalty payable shall stand reduced to 25% of the said amount, if the same is paid along with service tax determined, interest payable and the penalties imposed for not furnishing the Service Tax Returns, within 30 days of communication of this order."

4. The impugned order has been communicated to the Petitioner's former address in Triplicane, Chennai. According to the Petitioner, the Petitioner had shifted the place of business from No.25, Nagoji Street, Triplicane, Chennai – 600 005 to Sankar Complex, No.63/114, Thirumullaivoyal Road, Bharathi Nagar, Korattur, Chennai – 600 080.

5. The aforesaid address was also communicated to the office of the Respondent vide reply dated 18.02.2022 which has been duly acknowledged by the Superintendent of CGST Central Excise. There is no dispute on the same.

6. If the impugned order dated 30.08.2023 had been communicated to the correct address, the Petitioner would have been required to file a

statutory appeal within the period stipulated under Section 84 of the Finance Act, 1994.

7. However, the impugned order had remained unserved on the Petitioner and only after the recovery proceedings were initiated against the Petitioner, the Petitioner has approached this Court by way of this Writ Petition.

8. Under Section 35(8) of the Central Excise Act, 1944, the Petitioner would have been required to deposit 7.5% of the disputed tax at the time of filing of an appeal against the Original order. On further appeal, the Petitioner would have been required to deposit another 2.5 % of the disputed tax confirmed by the Original order.

9. Considering the facts and circumstance, liberty is granted to the Petitioner to file an appeal before the Appellate Authority under Section 84 of the respective Finance Act, 1994, within a period of 30 days from the date of receipt of a copy of this order, subject to the Petitioner depositing 10% of the disputed tax confirmed by impugned order in cash from the Petitioner's Electronic Cash Register within such time.

10. In case the Petitioner files such an appeal, the Respondent shall proceed to dispose of the appeal on merits after hearing the Petitioner on its own turn without further reference to limitation.

11. Subject to the Petitioner complying with the above stipulations, the attachment of the bank account of the Petitioner if any shall also stand automatically vacated.

12. In case the Petitioner fails to comply with the above stipulations, the Respondent is at liberty to proceed against the Petitioner to recover the tax in accordance with law as if this Writ Petition was dismissed *in limine* today.

13. This Writ Petition stands disposed of with the above observations. No costs. Connected Writ Miscellaneous Petitions are closed.

07.01.2026

Neutral Citation: Yes / No
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To:

The Assistant Commissioner,
Office of the Assistant Commissioner of GST and Central Excise,
Chennai North Commissionerate,
Thiruvika Nagar Division,
1st Floor, Newry Towers,
No.2054-I, Anna Nagar,
Chennai – 600 040.

<u>C.SARAVANAN, J.</u>

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