



WEB COPY



WP No.1728 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

**WP No.1728 of 2025**  
**and**  
**WMP Nos.1979 and 1980 of 2025**

The Nilgiri Dairy Farm P.Limited,  
Represented by its Director,  
Karan Ket

... Petitioner

versus

The Assessment Commissioner (ST),  
Chithode Assessment Circle,  
No.38, K.N.K. Road,  
Karungalpalyam,  
Erode -638003

... Respondent

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of Certiorari, calling for the records on the files of the respondent herein in his GSTIN:33AAACT8121A1Z0/2019-20 dated 24.08.2024 to quash the same and pass orders.

For the Petitioner  
For the Respondent

:Mr.R.Kumar  
:Mr.G.Nanmaran  
Special Government Pleader



WEB COPY



WP No.1728 of 2025

## **ORDER**

The present writ petition is filed challenging the impugned order dated 24.08.2024 on the ground of principles of natural justice.

2. The petitioner is a registered dealer under the Goods and Services Tax Act. During the relevant period, the petitioner had filed its return and paid appropriate taxes. However, pursuant to an authorization of joint commissioner in terms of Section 65 of the Act, the petitioner's place of business was audited. During the course of audit, the following discrepancies were noticed:

- i) Difference in ITC claim between Form GSTR-3B and auto populated GSTR-2A
- ii) Mismatch between GSTR 1 and GSTR 3B
- iii) Non payment of Tax under RCM as required under Section 9(3),(4) of the TNGST Act 2017
- iv) Unreconciled payment reported in Form GSTR-9C
- v) Credit notes issued treated as taxable supply

2/8



WP No.1728 of 2025

WEB COPY

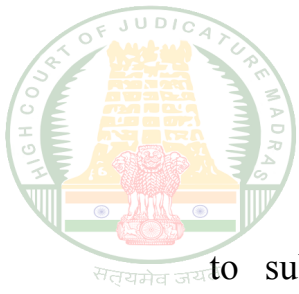
- vi) Other income treated as consideration received
- vii) Reversal of input tax credit on purchase returns
- viii) Ineligible input tax credit proposed under Section 17(5) of TNGST Act, 2017

2.1. Pursuant thereto, a notice in DRC 01A was issued to the petitioner. In response to the same, the petitioner filed its reply on 07.03.2024. Thereafter, a show cause notices in DRC 01 was issued to the petitioner on 30.05.2024 and 29.05.2024, followed by personal hearing on 10.08.2024 and 08.08.2024. The impugned order came to be passed dropping the defects 1,3, 4, 5 and 8 and confirming the following defects:

- i) Mismatch between GSTR 1 and GSTR 3B
- ii) Other income treated as consideration received
- iii) Reversal of input tax credit on purchase returns

3. 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**,

3/8



*WP No.1728 of 2025*

WEB COPY

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 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.

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

a) The impugned order and the consequential demand order dated 24.08.2024 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

4/8



WP No.1728 of 2025

WEB COPY

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.



WP No.1728 of 2025

WEB COPY

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.

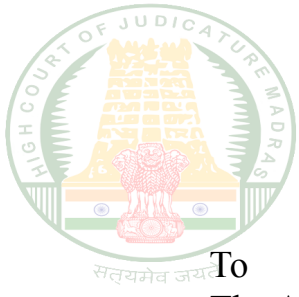
6. There will be no order as to costs. Consequently, connected miscellaneous petitions are closed.

22.01.2025

Index : Yes/No  
Neutral Citation : Yes/No  
mrn

SAG | blog

6/8



*WP No.1728 of 2025*

WEB COPY  
To  
The Assessment Commissioner (ST),  
Chithode Assessment Circle,  
No.38, K.N.K. Road,  
Karungalpalyam,  
Erode -638003



WEB COPY



*WP No.1728 of 2025*

**MOHAMMED SHAFFIQ, J.**

**(mrn)**

**WP No.1728 of 2025**

**and**

**WMP Nos.1979 and 1980 of 2025**

**22.01.2025**

8/8