

W.P.No.40073 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 06.01.2025

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THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

W.P.No.40073 of 2024
and W.M.P.Nos.43348 & 43349 of 2024

Chokalingam Srinivasan,
Represented by its Proprietor Mr. Chokalingam Srinivasan,
No.53, Jawahar Nagar, 3rd Main Road,
Paravallur, Chennai 600 082.

... Petitioner

Vs.

1. The Deputy State Tax Officer I,
(Formerly known as the Deputy Commercial Tax Officer),
Perambur Assessment Circle,
No.15 & 16, Malligai Avenue,
Kolathur,
Chennai 600 099.
2. The Deputy Commissioner (ST),
North -III Zone,
5th Floor, Room No.518,
Integrated Commercial Taxes Building,
32, Elephant Gate Road, Chennai 600 003.
3. The Branch Manager,
Allahabad Bank, Jawahar Nagar Branch,
No.12, First Main Road,



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Jawahar Nagar,
Chennai 600 082.

...Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for records in Reference Number:ZD330424132763L/2018-19 dated 17.04.2024 on the file of the 1st respondent and quash the same as contrary to law, consequently direct the 2nd Respondent to Defreeze the bank account bearing GSTIN:33ALKPS4893G1ZM/2018-19 DATED:21.11.2024 of the Petitioner.

For Petitioner

For R1 & R2

: Mrs.K.Vasanthamala

Government Advocate

ORDER

The present Writ Petition is filed challenging the impugned order dated 17.04.2024 passed by the first respondent relating to the assessment year 2018-19 on the ground of violation of principles of natural justice.

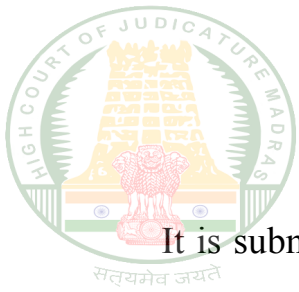
2. Mrs.K.Vasanthamala, learned Government Advocate, takes notice on behalf of the respondents 1 and 2. By consent of the parties, the main Writ Petition is taken up for disposal at the admission.



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WEB COPY3. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in the business of undertaking works contract services and is registered under the Goods and Services Tax Act, 2017. During the relevant period 2018-19, the petitioner had filed its returns and paid the appropriate taxes. However, on verification of the returns, it was noticed that there were *inter alia* discrepancies between GSTR-3B and Form 26AS of the Income Tax form; Form GSTR-3B and GSTR9/9C and proceedings were initiated under Section 61 of the TN GST Act, 2017/CGST Act 2017.

4. It is submitted by the learned counsel for the petitioner that an intimation in ASMT-10 was issued to the petitioner on 13.07.2023, followed by a show cause notice in Form DRC-01 on 24.08.2023. Further, an opportunity of personal hearing was offered to the petitioner on 26.03.2024. However, the petitioner had neither filed its reply nor availed an opportunity of personal hearing. 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 in the GST Portal, thereby, the petitioner was unaware of the initiated proceedings and was thus unable to participate in the adjudication proceedings.



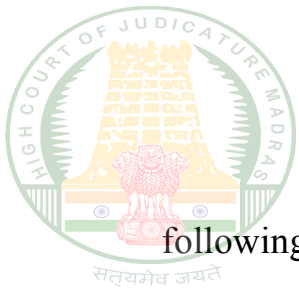
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It is submitted by the learned counsel for the petitioner that if the petitioner is provided with an opportunity, they would be able to explain the alleged discrepancies.

5. The learned counsel for the petitioner would place reliance upon the recent judgment of this Court in the case of *M/s.K.Balakrishnan, Balu Cables vs. O/o. the Assistant Commissioner of GST & Central Excise in W.P.(MD)No.11924 of 2024 dated 10.06.2024*, to submit that this court has remanded the matter back in similar circumstances subject to payment of 25% of the disputed taxes. It is also submitted that the recovery proceedings were initiated, the petitioner's Bank account maintained with the third respondent has been attached.

6. It was further submitted that the petitioner is ready and willing to pay 25% 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 1 & 2 does not have any serious objection.

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



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following terms:

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- a) The impugned order dated 17.04.2024 is set aside.
- b) The petitioner shall deposit 25% of the disputed taxes as admitted by the learned counsel for the petitioner and the respondents 1 & 2, 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 25% of disputed taxes directed to be paid. The assessing authority shall then intimate the balance amount out of 25 % 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 25% 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 25% of disputed taxes within the stipulated period i.e., four weeks from the date of



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receipt of a copy of this order shall result in restoration of the impugned order.

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f) 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., 25% 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.

g) In view of the above order, the attachment made on the petitioner's Bank account, shall be lifted/withdrawn on complying with the above condition viz., payment of 25 % of the disputed taxes.

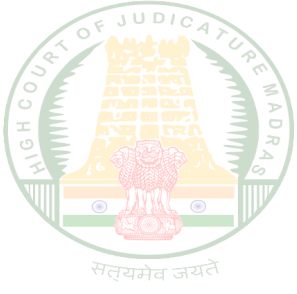
7. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No

Internet : Yes/ No

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MOHAMMED SHAFFIQ, J.

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