IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.02.2025

CORAM

THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.3644 of 2025
and W.M.P.Nos.4038 & 4039 of 2025

M/s.Tamilnadu Road Infrastructure
Development Corporation,
Represented by its Executive Director (FAC),
S.Palanivel,
4th Floor, LLA Building, 735 Anna Salai,
Chennai – 600 002. .. Petitioner

Vs.

The State Tax Officer,
Anna Salai Assessment Circle,
Greams Road, Annex Building,
4th Floor, Chennai – 600 006. .. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue Writ of Certiorari, to call for the records of the respondent in Form GST Drc-01 in dated 28.09.2023 and the consequential order in GSTIN:33AACCT2732R1Z2/2017-18 along with DRC-07 in Ref No.ZD331223070129P dated 12.12.2023 and quash the same as void, arbitrary apart from being barred by limitation.

For Petitioner : Mr.V.Sundareswaran
For Respondent : Mr.V.Prashanth Kiran
Government Advocate (Tax)

ORDER

This Writ Petition has been filed by the petitioner seeking to call for the records of the respondent in Form GST DRC-01 in dated 28.09.2023 and the consequential order in GSTIN:33AACCT2732R1Z2/2017-18 along with DRC-07 in Ref No.ZD331223070129P dated 12.12.2023 and quash the same as void, arbitrary apart from being barred by limitation.

2.Mr.V.Prashanth Kiran, learned Government Advocate (Tax), takes notice on behalf of the respondent.

3.By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

4.Learned counsel appearing for the petitioner would submit that, the petitioner company was incorporated as wholly owned by Government of Tamilnadu. The activity of the petitioner is only to obtain the grant given by the Goverment of Tamilnadu for the purpose of implementation of the construction and upgradation of roads in Tamilnadu and the same will be disbursed to the respective contractors. The petitioner is acting only as an agent of the Government of Tamilnadu and it has been registered under the category "Tax Deductor" and therefore, the petitioner ought not to have subjected to demand on the supply of goods/service under the GST Act. However, the show cause notice was issued on 28.09.2023. Since the entire functioning of the petitioner is done by the skeleton staff, which consists of only technical staff, there was no knowledge about the GST Portal, the proceedings uploaded by the respondent was not noted and therefore, they are not in a position to reply to the show cause notice. Subsequently, the impugned order came to be passed on 12.12.2023. Hence, he prayed to set aside the impugned order directing the respondent to permit the petitioner to file their reply and provide an opportunity of personal hearing so that the petitioner would be able to substantiate their case.

5.The learned Government Advocate appearing for the respondent would submit that the petitioner may be directed to deposit some amount out of the disputed tax demand in respect of the impugned assessment period.

6.Heard the learned counsel for the petitioner as well as the learned Government Advocate for the respondent and perused the materials available on record.

7.Upon perusal, it is seen that the petitioner was incorporated as wholly owned by Government of Tamilnadu. According to the petitioner, they only receive grant from the Government of Tamilnadu for the purpose of laying road and disburse the same to the contractor and therefore, they are not liable to pay any tax. Since the petitioner company is functioning with the skeleton staff, the proceedings uploaded by the respondent was not noted and therefore, they are not in a position to reply to the show cause notice.

8.In such circumstances, this Court feels that it is just and necessary to provide an opportunity to the petitioner to establish their case on merits and in accordance with law. As far as the deposit of the condtitional amount is concerned, this Court is not inclined to direct the petitioner to deposit the conditional amount since the petitioner has been registered under the category of "Tax Deductor".

9.For the reasons stated above, this Court is inclined to set aside the impugned order dated 12.12.2023 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks from the date of receipt of a copy of this order.

(ii) On filing of such reply/objection by the petitioner, the respondent shall consider the same and issue a 14 days clear notice by fixing the date of personal hearing to the petitioner and thereafter, pass appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.

10.With the above directions, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

03.02.2025

rst
Index : Yes/No
Internet: Yes/No
Speaking/Non-Speaking Order

To:

The State Tax Officer,
Anna Salai Assessment Circle,
Greams Road, Annex Building,
4th Floor, Chennai – 600 006.

KRISHNAN RAMASAMY, J.

rst

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