IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.02.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.4946 of 2025
and
W.M.P.Nos.5491, 5492 & 5494 of 2025

Tvl.Dhisai Ventures
No. 49, HIG, NHI,
Vallal MGR Street,
Maraimalai Nagar,
Kancheepuram, Tamilnadu 603209.
Represented by its Proprietor
Mr. D.S. Raveekumar

... Petitioner

Vs.

1.Deputy State Tax Officer-II,
Maraimalai Nagar Assessment Circle,
4/109, Second Floor,
Bangalore Chennai Highway,
Varadarajapuram, Nazarathpet,
Chennai-600 123.

2.The Branch Manager,
Indian Bank,
28A, Thiruvallur Salai, NH-1,
Maraimalai Nagar,
Kancheepuram 603 209

... Respondent

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 leading to the issuance of impugned order dated 21.08.2024 vide (GSTIN33AAIPR754P1ZY/2019-20) and quash the same.

For Petitioner	:	Mr.K.M.C.Arunmokan
For Respondent	:	Mr.V.Prashanth Kiran, Government Advocate for R1

ORDER

This writ petition has been filed challenging the impugned order dated 21.08.2024 passed by the 1st respondent.

2. Mr.V.Prashanth Kiran, learned Government Advocate, takes notice on behalf of the 1st respondent. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that in the present case, initially, the show cause notice dated 20.05.2024 was issued by the 1st respondent, for which, a detailed reply dated 20.06.2024 has been filed by the petitioner. Thereafter, the impugned order dated 21.08.2024 came to be passed and uploaded by the 1st respondent in the common portal. However, the petitioner was under the impression that the impugned assessment order will be served to him through Registered Post Acknowledgement Due (RPAD) and hence, he failed to verify the portal. Thereafter, vide notice dated 26.12.2024, the 2nd respondent-Bank had stopped the operations of the petitioner's account and upon enquiry, the petitioner came to know about the impugned order dated 21.08.2024. In the meantime, the statutory limitation for filing the appeal against the impugned assessment order has been expired.

4. Further, he would submit that 30% of the disputed tax amount has already been recovered by the 1st respondent vide bank attachment and now, the petitioner is willing to file an appeal against the said impugned assessment order. Therefore, though he had sought for larger relief in this petition, he had restricted his relief to the extent to request

this Court to grant liberty to the petitioner to file an appeal and hence, he requests this Court to pass appropriate orders.

5. In reply, the learned Government Advocate appearing for the respondent had also confirmed that 30% of the disputed tax amount has already recovered from the petitioner and hence, he requests this Court to pass any appropriate orders with regard to the filing of appeal.

6. Heard the learned counsel for the petitioner and the learned Government Advocate for the 1st respondent and also perused the materials available on record.

7. In the present case, it appears that now the petitioner is willing to file an appeal against the impugned assessment order dated 21.08.2024 passed by the respondent and today, the learned counsel for the petitioner has restricted his relief and requested this Court to grant liberty to the petitioner to file an appeal against the impugned assessment order since it will be sufficient to meet out the case of the petitioner.

8. Further, since the petitioner was under the impression that the assessment order will be served vide RPAD, he has failed to verify the portal. The petitioner came to know about the impugned assessment order only on 26.12.2024 and hence, there was a delay in filing the appeal.

9. No doubt that the respondent is supposed to have served the assessment order by virtue of RPAD instead of simply uploading the same in the portal. On the other hand, as per the provisions of Section 13 of the Information Technology Act, 2000, in the event of uploading the notice or order in the portal, the receipt of the same occurs only at the time when the said electronic record is retrieved by the Assessee. In this case, the petitioner had retrieved the impugned order only on 26.12.2024 and hence, only the said date has to be considered as date of service. If the said date (26.12.2024) is taken into consideration, as on date, the filing of appeal by the petitioner is well within the limitation. Further, it appears that 30% of the disputed tax amount has already been recovered from the petitioner, which is more than the pre-deposit (10%) that has to be paid for filing an appeal.

10. For all the reasons stated above, though this petition has been filed challenging the impugned order dated 21.08.2024, considering the submissions made by the petitioner, this Court is inclined to grant liberty to the petitioner to file an appeal against the impugned assessment order.

11. Accordingly, this Court passes the following order:

i) The liberty is granted to the petitioner to file an appeal against the impugned assessment order dated 21.08.2024 before the concerned Appellate Authority within a period of 30 days from the date of receipt of copy of this order.

ii) In such case, the Appellate Authority shall consider the said appeal filed by the petitioner on its own merits and in accordance with law, by providing sufficient opportunity to the petitioner, without pressing for limitation.

12. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are also

closed.

14.02.2025

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
nsa

To

Deputy State Tax Officer-II,
Maraimalai Nagar Assessment Circle,
4/109, Second Floor,
Bangalore Chennai Highway,
Varadarajapuram, Nazarathpet,
Chennai-600 123.

KRISHNAN RAMASAMY.J.,

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