IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.02.2025

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.Nos.6427, 6439 & 6440 of 2025
& W.M.P.Nos.7064, 7065, 7078, 7079, 7072 & 7073 of 2025

DBS Projects,
Rep by its Partner, Balasubramanian D,
12-C, 3rd Cross, East Meena Estate,
Sowaripalayam, Coimbatore,
Tamil Nadu 641 028

... Petitioner in all petitions

Vs.

Commercial Tax Officer,
Singanallur, Coimbatore North,
Coimbatore, Tamil Nadu

... Respondent in all petitions

Common Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the respondent leading to the issuance of impugned order dated 03.10.2024 vide GSTIN: 33AAGFD9629L1Z2/2023-24, 20.08.2024 vide GSTIN: 33AAGFD9629L1Z2/2019-20 & 06.04.2024 vide GSTIN: 33AAGFD9629L1Z2/2018-19 respectively and quash the same and consequently, direct the respondent to re-adjudicate the show cause notice after giving an opportunity of personal hearing.

For Petitioner in all petitions	:	Mr.A.G.Sathyanarayana
For Respondent in all petitions	:	Mr.V.Prashath Kiran, Government Advocate

COMMON ORDER

These writ petitions have been filed challenging the impugned orders dated 03.10.2024, 06.04.2024 & 20.08.2024 passed by the respondent.

2. Mr.V.Prashanth Kiran, learned Government Advocate, takes notice on behalf of the respondent in all petitions. By consent of the parties, the main writ petitions are taken up for disposal at the admission stage itself.

3. As far as the writ petition in W.P.No.6440 of 2025 is concerned, the learned counsel for the petitioner would submit that all the notices and orders were uploaded by the respondent under the "View Additional Notices and Orders" column in the GST Common portal. Being unaware of the said order, the petitioner had failed to file their reply within time. Under these circumstances, the impugned order dated 20.08.2024 came to be passed and uploaded in the GST Portal. However, the said order remained unnoticed by the petitioner, due to which they were not in a position to file the appeal in time.

4. As far as the writ petitions in W.P.Nos.6427 & 6439 of 2025 are concerned, he would submit that in these cases, though the petitioner had filed a detailed reply, along with the supporting documents, for the show cause notice issued by the respondent, the said reply was bluntly rejected by stating the no supporting documents were provided. Subsequently, the impugned orders dated 03.10.2024 and 06.04.2024 came to be passed

by the respondent without providing any opportunity of personal hearing to the petitioner. Being unaware of the said orders, the petitioner had failed to file their appeal within time. Hence, he requests this Court to pass appropriate orders. Further, he requests this Court to de-freeze the bank account of the petitioner.

5. On the other hand, the learned Government Advocate appearing for the respondent would submit that though all the notices and orders were duly uploaded by the respondent, the petitioner had failed to file the appeal in time. Hence, he would contend that thee petitioner had approached this Court beyond the period of limitation and the said delay has occurred only due to the fault on the part of the petitioner. Thus, he requests this Court to pass appropriate orders.

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

7. As far as the writ petitions in W.P.Nos.6427 & 6439 of 2025 are concerned, it appears that initially, the show cause notice was issued by the respondent, for which a reply was filed by the petitioner. However, the said reply filed was rejected on the ground that no supporting documents were filed. Subsequently, the impugned orders dated 03.10.2024 and 06.04.2024 came to be passed by the respondent without providing any opportunity of personal hearing to the petitioner. On the other hand, in the writ petition in W.P.No.6440 of 2025, since the notices and impugned order were uploaded by the respondent under the "View Additional Notices and Orders" column in the GST Common portal, the same remained unnoticed by the petitioner, due to which they were not in a position to file their reply in time. Under these circumstances, the impugned order dated 20.08.2024 came to be passed by the respondent.

8. In view of the above, it is clear that in two cases, i.e.,

W.P.Nos.6427 & 6439 of 2025, the petitioner had filed their reply for the show cause notices, whereas, in W.P.No.6440 of 2025, it was submitted that they were not aware about the issuance of show cause notice, since the same was uploaded in the common portal.

9. Upon perusal of records, it appears that in all the three matters, the show cause notices were uploaded by the respondent in the same common portal. When such being the case, this Court is unable to accept the aforesaid reason assigned by the petitioner for non-filing of reply in W.P.No.6440 of 2025.

10. Hence, it is clear that though the respondent had provided sufficient opportunities, due to the inaction on the part of the petitioner, they had given up their rights for personal hearing and filing of reply in these cases. However, normally, an Assessee will have two opportunities to present their case. One is before the Assessing Officer and another is before the Appellate Authority. The Appellate Authority will also have similar power of the Assessing Officer to adjudicate the petitioner’s case.

11. Therefore, in the interest of justice, this Court is inclined to grant liberty to the petitioner to file an appeal before the concerned Appellate Authority on terms. Accordingly, this Court passes the following order:-

(i) The petitioner is directed to file the appeals against the assessment orders dated 03.10.2024, 06.04.2024 & 20.08.2024 before the concerned Appellate Authority, subject to the payment of 20% of the disputed tax amount, in each cases, by the petitioner to the respondent-Department within a period of 15 days from the date of receipt of copy of this order.

(ii) Upon payment of the said amount, the concerned Appellate Authority is directed to take the appeals on record, if it is otherwise in order, and pass appropriate orders on merits and in accordance with law, after providing an sufficient opportunity to the petitioner, as expeditiously as possible.

(iii) Further, the respondent is directed to instruct the concerned Bank to release the attachment, and de-freeze the bank account of the petitioner, immediately upon the production of proof with regard to the payment made by the petitioner as stated above.

12. In the result, these writ petitions are dismissed by granting the aforesaid liberty to the petitioner. No costs. Consequently, the connected miscellaneous petitions are also closed.

26.02.2025

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

To

Commercial Tax Officer,
Singanallur, Coimbatore North,
Coimbatore, Tamil Nadu

KRISHNAN RAMASAMY.J.,

nsa

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& W.M.P.Nos.7064, 7065, 7078, 7079, 7072 & 7073 of 2025

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