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W.P.No.8474 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2025

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The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.8474 of 2025
and
W.M.P.Nos.9485 and 9486 of 2025

M/s.Sri Senthur Muruga Construction,
No.340/5, C.B.Complex,
Brough Road, Erode-638 001,
Represented by Mr.Meganathan,
Managing Director.

...Petitioner

Vs.

Deputy Commercial Tax Officer,
Brough Road, Erode.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records relating to the impugned order bearing Reference No:ZD3307241091002 dated 09.07.2024 passed by the Respondent, quash the same.



W.P.No.8474 of 2025

For Petitioner

: Mr.T.R.Ramesh

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: Ms.AmirthaPoonkodi Dinakaran
Government Advocate (Taxes)

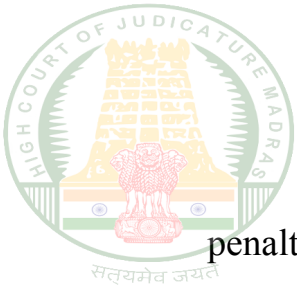
ORDER

The challenge in this writ petition is to the order dated 09.07.2024 passed by the Respondent and to quash the same.

2.Ms.Amirthapoonkodi Dinakaran, learned Government Advocate (Taxes), takes notice on behalf of the respondent.

3. By consent of the parties, the main Writ Petition is taken up for disposal at the time of admission stage itself.

4. The learned counsel for the petitioner submits that respondent issued show cause notice dated 30.04.2024 and the same was uploaded in the GST portal. Since the petitioner's accountant failed to notice the same, the petitioner was unaware of the aforesaid show cause notice and hence failed to file its reply. Under such circumstances, the respondent passed the impugned order dated 09.07.2024, demanding tax along with interest and



W.P.No.8474 of 2025

penalty for the Assessment Year 2017-2018. The Petitioner came to know of the same only during November 2024. Immediately the petitioner filed an appeal, challenging the impugned order and the same was rejected on the ground of delay. Hence, left with no other alternative the petitioner has filed this writ petition.

5. Further, he would submit that no opportunity of personal hearing was granted to the petitioner before passing impugned order and therefore the same is in violation of principles of natural justice and hence prays to set aside the same.

6. On the other hand, the learned Government Advocate (Taxes) would submit that though the show cause notice along with personal hearing notice were issued to the Petitioner, the petitioner neither submitted its reply nor appeared for personal hearing and therefore impugned order came to be passed.

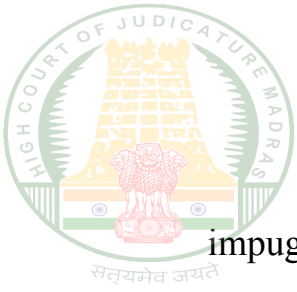


W.P.No.8474 of 2025

7. In reply, the learned counsel for the petitioner would submit that already 10% of the disputed tax has been deposited by the petitioner at the time of filing the appeal and the petitioner is now ready and willing to pay 15% of the disputed tax liability made by the respondent in the event of providing an opportunity to them to file their reply along with the required documents to substantiate their claim, for which, the learned Government Advocate (Taxes) has no serious objection.

8. Heard the learned counsel for the petitioner and the learned Government Advocate (Taxes) for the respondent and also perused the materials available on record.

9. In the present case, since the show cause notice was uploaded in the GST Portal and the petitioner's accountant failed to notice the same, the petitioner was unaware of the show cause notice and hence could not file its reply. Therefore, impugned order came to be passed. Further, it appears that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Hence, this Court is of the view that the



W.P.No.8474 of 2025

WEB COPY

impugned order was passed in violation of principles of natural justice and it is just and necessary to provide an opportunity to the petitioner to establish their case on merits. In such view of the matter, this Court is inclined to set aside the impugned order passed by the respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 19.07.2024 is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay 15% of disputed tax to the respondent within a period of **four weeks** from the date of receipt of a copy of this order and the setting aside of the impugned order will take effect from the date of payment of the said amount.

(ii) The petitioner shall file their additional reply/objection along with the required documents, if any, within a period of two weeks thereafter.

(iii) 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



W.P.No.8474 of 2025

WEB COPY

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, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

12.03.2025

Index : yes/no
Neutral Citation : yes/no
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W.P.No.8474 of 2025

WEB COPY

To

Deputy Commercial Tax Officer,
Brough Road, Erode.

Krishnan Ramasamy,J.,

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WEB COPY



W.P.No.8474 of 2025

W.P.No.8474 of 2025

12.03.2025