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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.03.2025

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.9188 of 2025
and
W.M.P.Nos.10292 and 10294 of 2025

S.S.Balakrishnan
Proprietor of Tvl.Parameswari Stores,
5.22C, Uppalankadu Palanivelakadu Modikadu,
Sankari RS Post,
Sankari Taluka,
Salem District-637302. ... Petitioner

..Vs..

1. Assistant Commissioner (ST),
Tiruchengodu (Rural),
Commercial Tax Office,
Ponnusamy Buildings,
Sankari Main Road,
Tiruchengode.

2. M/s.Yes Bank,
Tiruchengode Branch
363/1, Sankari Road,
Tiruchengode-637211. ... Respondents

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records of the 1st respondent

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leading to issuance of Impugned order dated 29.04.2024 (vide GSTIN33AJYPB0238J1Z7/2018-19) and quash the same.

For Petitioner : Mr.Arunmokan

For Respondent : Ms.P.Selvi
Government Advocate (Taxes)

ORDER

The challenge in this writ petition is to the order dated 29.04.2024 passed by the 1st respondent and to quash the same.

2. Ms.P.Selvi, learned Government Advocate (Taxes), takes notice on behalf of the 1st 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 the show cause notice dated 26.12.2023 was issued to the petitioner, for which the petitioner erroneously filed its reply on 06.02.2024 and that apart the petitioner was unable to rectify his reply as the GST portal did not allow for any rectification. Subsequently, the respondent passed the impugned assessment order dated

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29.04.2024, demanding tax along with interest and penalty for the Assessment Year 2018-2019. Subsequently, the bank account of the petitioner was also freezed. However, he fairly submitted that though personal hearing was provided to the petitioner, due to his ill health, he was unable to appear before the authority concerned.

6. The learned Government Advocate (Taxes) appearing for the 1st Respondent submitted that the Show Cause Notice as well as the reminder notices were issued to the Petitioner for which the petitioner also filed his reply, but he had not chosen to appear before the authorities for personal hearing. The 1st respondent only on considering the reply filed by the petitioner has passed the assessment order and therefore the principles of natural justice has been duly complied with.

7. In reply, the learned counsel for the petitioner would fairly submit that the petitioner is now ready and willing to pay 25% 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) appearing for the Respondent has no serious objection.

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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, though the personal hearing was granted to the petitioner, he failed to appear before the authorities concerned due to his health reasons.

10. Considering the said fact and since the petitioner undertakes to pay 25% of the disputed tax liability and in order to provide an opportunity to the petitioner to substantiate his claim, this Court is inclined to set aside the impugned assessment order dated 29.04.2024 passed by the Respondent. Accordingly, this Court passes the following order:-

> (i) The impugned order dated 29.04.2024 is set aside and the matter is remanded to the 1st Respondent for fresh consideration on condition that as volunteered by the Petitioner, they shall pay 25% of disputed tax to the Respondent within a period of ***four weeks*** from the date of receipt of a copy of this

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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 hearing to the petitioner and thereafter, pass appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.

(iv) Considering the fact that the impugned order itself has been set aside, this Court is of the opinion that the attachment, made on the bank account of the Petitioner, cannot survive any longer and hence, it is lifted. As a sequel, the 2nd respondent is directed to release the attachment on the bank account of the petitioner, immediately upon the production of proof with regard to the payment of 25% as stated above.

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12. Accordingly, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

19.03.2025

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

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   Sankari Main Road,
   Tiruchengode.

2. M/s.Yes Bank,
   Tiruchengode Branch
   363/1, Sankari Road,
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Krishnan Ramasamy,J.,

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