IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-03-2025

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THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 10247 of 2025
AND
WMP NO. 11533 OF 2025,WMP NO. 11534 OF 2025

Supreme Travels
Rep by its Proprietor D Gopinathan
No.10A Thiruvalluvar Street,
Manavalanagar Thiruvallur
Chennai 602 002

Petitioner(s)

Vs

The Deputy Commercial Tax Officer
Thirumazhisai Assessment Circle
No 4/109 GST Integrated Building,
Nazarathpet, Chenani 600 123

Respondent(s)

PRAYER:-Writ Petition filed under Article 226 of the Constitution of India, pleaded to issue a Writ of Certiorari, calling for the records relating to the impugned order dated 22/02/2025 for the financial year 2020-21 in Reference Number ZD330225233018U passed by the Respondent,and quash the same.

For Petitioner(s): Mr.R.Saravanan

For Respondent(s): Ms.Amirta Poonkodi Dinakaran,
Government Advocate (t)

ORDER

This Writ Petition has been filed by the petitioner seeking to call for the records relating to the impugned order dated 22/02/2025 for the financial year 2020-21 in Reference Number ZD330225233018U passed by the Respondent,and quash the same.

2.Ms.Amirta Poonkodi 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 admission stage itself.

4.Learned counsel appearing for the petitioner would submit that, in the present case, the petitioner is engaged in the business of transport of employees and goods. Ever since the date of registration, the petitioner is filing monthly returns regularly and remitting the tax due thereupon promptly. While so, the respondent issued show cause notice dated 25.11.2024 stating that on scrutiny of returns, the petitioner had not correctly availed input tax on his inward supplies on reconciliation of turnover in GSTR-09. For which, the petitioner vide letter dated 24.12.2024, requested further time to file their reply. However, before filing the reply, the respondent issued two reminders for filing reply and personal hearing and passed the impugned demand order dated 22.02.2025. He would further submit that though the limitation period for passing order for the financial year 2020-21 ends only on 28.02.2025, the respondent had passed the impugned demand order on 22.02.2025 itself. Further, he would also submit that the petitioner is ready and willing to pay 25% of the disputed tax demand in respect of the impugned assessment period and 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.Learned Government Advocate appearing for the respondent would submit that the petitioner sought one month time for filing their reply vide letter dated 24.12.2024. Thereafter the reminder was sent only on 31.01.2025 and 15.02.2025, fixing the date of filing reply and personal hearing and since no reply was filed the impugned demand order came to be passed. She would further submit that as per the voluntary submissions made by the learned counsel for the petitioner, subject to the deposit of 25% of the disputed tax demand by the petitioner in respect of the impugned assessment period, if the Court feels it appropriate and it is a fit case for re-consideration, this Court may consider and pass orders.

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

7.Considering the above submissions made by the learned counsel on either side and upon perusal of the materials, it is evident that the petitioner sought time for filing their detailed reply vide letter dated 24.12.2024. Thereafter, the impugned demand order came to be passed on 22.02.2025, after issuing two reminders dated 31.01.2025 and 15.02.2025.Though the petitioner sought one month time for filing their reply, they have not filed their reply even after one month and hence, the respondent had passed the impugned demand order dated 22.02.2025 after issuing two reminders. Therefore, this Court dosen't find fault on the part of the respondent in passing the impugned order. However, since the impugned demand order is an *exparte* order and petitioner prays to grant one more opportunity to substantiate their case, this Court is inclined to set aside the impugned order dated 22.02.2025 passed by the respondent, in order to provide an opportunity for the petitioner. Accordingly, this Court passes the following order:-

(i) The order impugned herein is set aside on condition that the petitioner deposits 25% of the disputed tax amount in respect of the impugned assessment period, as agreed by the petitioner, within a period of four weeks from the date of receipt of a copy of this order.

(ii) The petitioner shall file their 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.

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

25-03-2025

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

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To

The Deputy Commercial Tax Officer
Thirumazhisai Assessment Circle No
4/109 GST Integrated Building,
Nazarathpet, Chenani 600 123

KRISHNAN RAMASAMY J.

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