IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 02.04.2025
Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.10866 of 2025
and
W.M.P.Nos.12249 & 12252 of 2025

Tvl. Sri Murugan Agro Agencies,
rep. by its Proprietor, Mr.Kuppusamy Gnanamoorthi. ...Petitioner

Vs.

The Deputy State Tax Officer,
Sathyamangalam Assessment Circle
Erode. ...Respondent

Prayer :-

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for records of the impugned assessment order in Ref.No.ZD3304231262380 dated 26.04.2023, under Section 73 of the CGST /TNGST Act, 2017, and uploaded the same along with the summary of order in DRC-07 for the FY 2021-22 issued by the respondent herein from the files of the respondent herein and to quash the same as arbitrary.

For Petitioner : Ms.Aparna Nandakumar

For Respondent : Ms..Amirta Poonkodi Dinakaran
Government Advocate (T)

Order

Heard Ms.Aparna Nandakumar learned counsel appearing for the petitioner and Ms.Amirta Poonkodi Dinakaran, learned Government Advocate (T) who takes notice on behalf of the respondent. With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

2. The challenge in this Writ Petition is to the order passed by the respondent dated 26.04.2023 under Section 73 of the CGST /TNGST Act, 2017, along with the summary of order in DRC-07 for the FY 2021-22 and to quash the same as arbitrary.

3. The learned counsel for the petitioner would submit that all the notices/communications, which culminated in the impugned order were not uploaded under the usual column, "View Notices and Orders, but under different column, "View Additional Notices and Orders", therefore, neither the petitioner nor their erstwhile Chartered Accountant was aware of such notices, however, upon verification of the Portal by a new Chartered Account, it was informed to the petitioner that various notices and orders were issued by the respondent herein, immediately thereafter, the petitioner has instructed his new Chartered Accountant to prefer Appeal against the impugned order, but, due to medical reasons, the Appeal could not be filed in time but filed with a delay and the same came to be rejected by the Deputy Commissioner (CT), hence, the petitioner is before this Court challenging the impugned order dated 26.04.2023,

3.1 Therefore, the learned counsel would submit that the impugned order suffers from violation of principles of natural justice and are liable to be aside. It is further submitted that the petitioner is ready and willing to deposit 15% of the disputed tax, in the event, this Court is inclined to set aside the impugned orders and issues appropriate directions in that regard.

4. The learned Government Advocate (T) for the respondent fairly submitted that since the petitioner has already deposited 10% of the disputed tax while preferring appeal and has now voluntarily came forward to deposit 15% of the disputed tax, this Court may pass appropriate orders, as it deems fit and proper.

5. I have given due considerations to the submissions made on either side and perused the materials available on record.

6. Admittedly, there is no dispute on the aspect that the impugned Assessment Order passed by the respondent dated 26.04.2023 is an ex parte order, as the petitioner has not been heard before passing the same, since, all the notices/communications, which culminated in the impugned assessment order have been merely uploaded in the GST Portal through on-line service that too, not under the usual column, "View Notices and Orders, but under different column, "View Additional Notices and Orders", therefore, neither the petitioner nor the erstwhile Chartered Accountant was aware of such notices being uploaded under the said different column, however, upon verification of the Portal by a new Chartered Account, it was informed to the petitioner that various notices and orders were issued by the respondent herein, immediately thereafter, the petitioner has instructed his Chartered Accountant to prefer Appeal against the impugned order. However, when the petitioner challenged the impugned assessment order and preferred Appeal, the Deputy Commissioner dismissed the Appeal on the ground that the same has been filed beyond the condonable period of limitation, which necessitated the petitioner to approach this Court.

6.1 Therefore, in the light of the above facts and circumstances of the case, this Court is inclined to set aside the impugned assessment order passed by the respondent/assessing officer, as the same suffers from violation of principles of natural justice. Thus, once the order is passed in violation of principles of natural justice, this Court cannot impose any condition. However, considering the fact that the petitioner is also ready and willing to pay 15% of the disputed tax, in the event, the impugned assessment order is set aside, this Court is inclined to pass/issue following the orders/directions:-

i) The impugned order dated 26.04.2023 passed by the respondent along with summary of the order in DRC-07 are set aside.

ii) Consequently, the matter is remanded to the respondent for fresh consideration.

iii) The petitioner is granted liberty to deposit 15% of the disputed tax, which the petitioner themselves have voluntarily came forward to make such payment within a period of two weeks from the date of receipt of a copy of this order.

iv) Thereafter, the petitioner is directed to file a reply along with supportive documents within a period of two weeks.

v) Thereupon, the respondent is directed to consider the reply and shall issue a clear 14 days notice affording an opportunity of personal hearing to the petitioner and shall decide the matter in accordance with law.

7. In the result, the Writ Petition is allowed on the aforesaid terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

02.04.2025

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Index : yes/no
Neutral Citation : yes/no

To

The Deputy State Tax Officer,
Sathyamangalam Assessment Circle, Erode.

Krishnan Ramasamy,J.,

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W.P.No.10866 of 2025

02.04.2025