IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-03-2025

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THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 10877 of 2025
AND
WMP NO. 12269 OF 2025,WMP NO. 12271 OF 2025

Tvl Senthil Samy Fire Woods
Rep. by its Proprietor Palanisamy
Suresh Kumar, 70, Ranganathar Street,
Maniyakarampalayam,
Coimbatore - 641 006.

Petitioner(s)

Vs

The Deputy State Tax Officer 1
Office of the Deputy Commercial Tax
officer, Saravanampatti (West) Circle,
Coimbatore- 18.

Respondent(s)

PRAYER:-Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records on the files of Respondent in Impugned Order vide GSTIN- 33BPEPS9702P1ZA/2018-19 dated 29.04.2024 along with consequential order in Form GST DRC-07 bearing a Ref No- ZD330424240242Y dated 29.04.2024 for the tax period April, 2018 to March 2019 and quash the same as arbitrary.

For Petitioner(s): Mr.S.Kannan

For Respondent(s): Ms.P.Selvi,
Government Advocate (t)

ORDER

This Writ Petition has been filed by the petitioner seeking to call for the records on the files of Respondent in Impugned Order vide GSTIN-33BPEPS9702P1ZA/2018-19 dated 29.04.2024 along with consequential order in Form GST DRC-07 bearing a Ref No- ZD330424240242Y dated 29.04.2024 for the tax period April, 2018 to March 2019 and quash the same as arbitrary.

2.Ms.P.Selvi, 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 respondent issued the show cause notice dated 30.12.2023, rasing two issues regarding i) ITC reversal and ii) eligibility to claim ITC. For which, the petitioner had filed their detailed reply on 17.03.2024. However, the respondent after taking into consideration of the reply filed by the petitioner, had droped issue regarding the ITC claim and confirmed the proposal relating to the reversal of ITC stating that the petitiner had not filed reply to the said issue. Though the petitioner filed a common reply for both the issues, the respondent without perusing the documents filed by the petitioner had confirmed the proposals. He would further 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 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 impugned show cause notice was issued rasing a couple of issues. Though the petitioner had filed a reply to the show cause notice, the proposals relating to ITC reversal was confirmed by the petitioner stating that the petitioner had not filed any reply regarding the said issue. According to the petitioner, the petitioner had filed a common reply for both the issues and they have also submitted the necessary documents and he request to grant one more opportunity to the petitioner to establish their case before the respondent. In order to provide one more opportunity to the petitioner to put forth their case, this Court is inclined to set aside the impugned order dated 29.04.2024 passed by the respondent. 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
(½)

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

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To

The Deputy State Tax Officer 1
Office of the Deputy Commercial Tax
officer, Saravanampatti (West) Circle,
Coimbatore- 18.

KRISHNAN RAMASAMY J.

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