IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.03.2025

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The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.11313 of 2025
and
W.M.P.Nos.12753 and 12754 of 2025

Tvl.Vino Construction
Rep. by its Managing Partner-
Mr.Thangavel Nagappagowder,
20,Ex-serviceman Colony,
Bhavanisagar,
Sathyamangalam,
Erode-638451.
GSTIN:33AAEFV3919R1ZL ... Petitioner

..Vs..

The State Tax Officer,
Office of the Commercial Tax Officer,
Sathyamangalam Jurisdiction
Erode. ... Respondent

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 Respondent herein in its Impugned Order passed in GSTIN:33AAEFV3919R1ZL/2020-2021 dated 24.02.2025 along with consequential order in Form DRC-07 bearing Reference No.ZD3302252505661 dated 24.02.2025 for the period

2020-2021 and quash the same.

For Petitioner	:	Ms.R.Hemalatha
For Respondent	:	Mr.C.Harsha Raj (Taxes) Special Government Pleader

ORDER

The challenge in this writ petition is to the order dated 24.02.2025 passed by the respondent and to quash the same.

2. Mr.C.Harsha Raj, learned Special Government Pleader (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 the show cause notice dated 25.11.2024, followed by reminders dated 31.12.2024, 25.01.2025 and 01.02.2025 were issued to the petitioner alleging certain discrepencies. Since the petitioner could not filed its reply, the respondent passed the impugned assessment order dated 24.02.2025, demanding tax along with

interest and penalty for the Assessment Year 2020-2021. Further, he would submit that with respect to the same assessment year already another assessment order was passed by another assessment officer and the same has been challenged before this Court in W.P.No.2538 of 2025 and the said writ petition is pending. While so, the order impugned herein has been passed by another assessment officer and therefore the same is not sustainable.

5. Further, he would submit that impugned assessment order came to be passed without affording an opportunity of personal hearing to the Petitioner and therefore the same is passed in violation of principles of natural justice. Hence he prays to set aside the impugned order.

6. The learned Special Government Pleder(Taxes) appearing for the Respondent submitted that though the Show Cause Notice as well as the reminder notices were issued to the Petitioner, by uploading the same in the GST portal, the petitioner neither failed to submit its reply nor appeared for personal hearing and hence impugned assessment order came to be passed.

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 Special Government Pleder(Taxes) appearing for the Respondent has no serious objection.

8. Heard the learned counsel for the petitioner and the learned Special Government Pleader(Taxes) for the Respondent and also perused the materials available on record.

9. It is settled law that violation of principles of natural justice is a failure of due process. If any order is passed against the petitioner with demand, that order has to be passed after giving an opportunity of personal hearing to the petitioner otherwise, it will amount to depriving the interest of the petitioner and the same amounts to violation of principles of natural justice.

10. In the case on hand, the impugned order came to be passed without hearing the petitioner. Hence, this Court is of the view that the impugned order passed is 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

assessment order dated 24.02.2025 passed by the Respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 24.02.2025 is set aside and the matter is remanded to the 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 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 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.

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<u>Krishnan Ramasamy,J.,</u>

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

28.03.2025

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

The State Tax Officer,
Office of the Commercial Tax Officer,
Sathyamangalam Jurisdiction
Erode

<u>W.P.No.11313 of 2025</u>