IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.04.2025

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The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.16118 of 2025
and
W.M.P.Nos.18251 & 18256 of 2025

Tvl.Sree Kumaresa Enterprises,
Represented by its Managing Partner
Dr.Vanaja Sampath Prasanna Rajan,
R/o C-33, 7/4, Thiaga Brammam Street,
Subramania Nagar, Salem- 636 005. ...Petitioner

Vs.

1. Deputy State Tax Officer – I,
   Suramangalam Circle,
   Integrated Commercial Taxes Building,
   Pitchards Road, Salem-636 007.

2. Assistant Commissioner (ST),
   Suramangalam Circle,
   Integrated Commercial Taxes Building,
   Pitchards Road, Salem-636007.

3. Joint Commissioner (ST),
   Salem Division,
   Integrated Commercial Taxes Building,
   Pitchards Road, Salem-636007. ...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for records of the assessment proceedings issued by the 1st respondent in GSTIN 33AAHFS5523R1ZP / 2018-19 - dated 24.04.2024 raising a demand of Rs. 1029247.00; Notice issued by the 1st respondent in GSTIN 33AAHFS5523R1ZP / 2018-19 - dated 07.11.2024; order of the 3rd respondent rejecting the Review application in Roc no. 12445/2024 /B6 dated 25.01.2025 and to quash the same and consequently to Direct the 1st respondent to re assess by taking into consideration the replies provided by the petitioner in accordance with section 61 of the Goods and Service Tax Act 2017 with the liberty to the petitioner to move a fresh application if this Hon'ble Court remands back the matter for re assessment by the 1st respondent.

For Petitioner : Mr.Padmanaban M

For Respondents : Mrs.K.Vasanthamala
Government Advocate (Taxes)

Order

Mrs.K.Vasanthamala, learned Government Advocate (Taxes), takes notice on behalf of the respondents. 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 dated 24.04.2024, notice dated 07.11.2024 and order dated 07.11.2024 passed by the 1st and 3rd respondents respectively and to quash the same and consequently direct the 1st respondent to re assess by taking into consideration the replies provided by the petitioner in accordance with section 61 of the Goods and Service Tax Act 2017 with the liberty to the petitioner to move a fresh application, if this Court Court remands back the matter for re assessment by the 1st respondent.

3. The learned counsel for the petitioner would submit that initially the first respondent issued notices dated 06.10.2023, 15.11.2023 and 29.01.2024 followed by reminder notice dated 18.03.2024 for which the petitioner submitted its reply on 18.10.2023, 18.11.2023, 15.12.2023 and 30.01.2024. But the 1st respondent without considering the same in the proper perspective passed the impugned assessment order dated 25.04.2024 demanding tax along with interest and penalty for the Assessment Year 2018-19. Thereafter, the 2nd respondent issued the demand notice dated 07.11.2024. Since, there is procedural infirmities/violations in the impugned order the petitioner filed a review petition before the 3rd respondent and the same was rejected by the 3rd respondent vide order dated 25.01.2025 on the ground that the petitioner cannot file revision petition before the revisional authority, against the order of the 1st respondent under Section 108 of the Tamil Nadu Goods and Services Tax, 2016.

4. Further, he would submit that due to ill health, the petitioner presented revision before the 3rd respondent beyond the period of limitation. But the 3rd respondent without considering the same has rejected the revision filed by the petitioner. That apart, the petitioner was not afforded an opportunity of personal hearing before passing the impugned orders. Therefore, the impugned orders suffers from violation of principles of natural justice and is liable to be aside.

4.1. It is also submitted by the learned counsel for the petitioner that the petitioner is ready and willing to deposit 25% of the disputed tax, in the event, this Court is inclined to set aside the impugned assessment order and remand the matter back to the Authority for fresh consideration.

5. The learned Government Advocate (Taxes) for the respondents fairly submitted that since the petitioner has voluntarily come forward to deposit 25% of the disputed tax, the prayer sought for by the petitioner may be considered.

6. Considering the above submissions made by the learned counsel on either side and upon perusal of the materials, this Court is of the view that the impugned assessment order came to be passed without propertly considering the reply filed by the petitioner and without affording any opportunity of personal hearing to the petitioner. Hence, this Court is inclined to set-aside the impugned assessment order with terms, by issuing the following directions:-

i) The impugned assessment order dated 24.04.2024 passed by the first respondent is set aside.

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

iii) The petitioner is granted liberty to deposit 25% of the disputed tax, which the petitioner themselves had 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 first 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.

8. With the above observations & directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

30.04.2025

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Index : yes/no
Neutral Citation : yes/no

To

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Krishnan Ramasamy,J.,

arr

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