IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-04-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 13507 of 2025
and
WMP Nos. 15148 & 15151 of 2025

SPE Homes Private Limited,
792, Trunk Road, 2nd Floor,
Thiruvallur, Poonamalle,
Tamil Nadu 600 056.

Petitioner(s)

Vs

Deputy State Tax Officer-I (FAC)
Poonamalle Assessement Circle,
Station 4/109, 3rd Floor,
Bangalore Chennai Highway,
Varadarajapuram, Nazarathpet,
Chennai 600 123.

Respondent(s)

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records on the file of Respondent in passing the impugned assessment order vide GSTIN

Reference No.33AAPCS1233B1ZT/2018-19 dated 23.04.2024 for the Financial Year GST/2018-19 to quash the same as arbitrary, illegal and devoid of merit and further direct the Respondent to consider the submissions of the Petitioner on merits after granting an opportunity of hearing.

For Petitioner(s):	Ms.Durga V.Bhatt
For Respondent(s):	Mr.C.Harsha Raj, Special Government Pleader (tax)

ORDER

The present Writ Petition is filed challenging the order dated 23.04.2024 passed by the respondent relating to the assessment year 2018-19, on the ground of violation of principles of natural justice.

2. Mr.C.Harsha Raj, learned Special Government Pleader (tax) appearing for the respondent, takes notice on behalf of the respondent. By consent of the parties, the main Writ Petition is taken up for disposal at the stage of admission itself.

3. The learned counsel for the petitioner submitted that the petitioner is engaged in the business of buying and selling of plots, constructions of villas,

developing of buildings etc., and registered under the Goods and Service Tax, Act, 2017. During the relevant period, the petitioner had filed its returns and paid the appropriate taxes. On scrutiny of the returns filed for the tax period from 01.04.2018 to 31.03.2019, it was found that the petitioner had reported disproportionately high purchase turnover, however, the corresponding sales turnover was "Nil", resulting in no payment of taxes.

4. Pursuant thereto, the said defect was intimated to the petitioner, followed by which, a show cause notice in Form DRC-01 dated 31.01.2024 was issued to the petitioner through GST common portal. However, the petitioner had neither filed its reply nor appeared before the respondent to explain the Nil payment of taxes. Hence, the impugned order came to be passed by the respondent, confirming the proposals contained in the show cause notice.

5. It is submitted by the learned counsel for the petitioner that the petitioner used to file returns through an accountant and he has no knowledge and access to the portal and thereby, he was not aware of the notice uploaded in

the GST common portal, and hence he could not file the reply to the show cause notice, which led to the passing of the order dated 23.04.2024.

6. Being aggrieved over the said order dated 23.04.2024, the petitioner filed an appeal before the Appellate Authority along with 10% of the pre-deposit and the same was rejected vide order dated 13.01.2025, on the ground that the appeal has been filed beyond the statutory period. He further submitted that since the petitioner was not aware of the order dated 23.04.2024, he was not able to file the Appeal within the period of limitation. Hence, the petitioner has filed the present Writ Petition.

7. Mr.C.Harsha Raj, learned Special Government Pleader (Taxes) appearing for the respondent would submit that, if this Court is inclined to remit the matter to the Authority concerned, the same may be considered, subject to payment of 15% of the disputed tax demand.

8. Heard the learned counsel for the petitioner as well as the learned

Special Government Pleader for the respondent and also perused the material available on record.

9. In the present case, it appears that the petitioner was not aware of the impugned order dated 23.04.2024 passed by the respondent, due to which, there was delay in filing the appeal. Considering the fact that the petitioner has complied with the pre-condition of depositing 10% of the disputed tax at the time of filing of the Appeal, in the interest of natural justice, and in order to give one more opportunity to the petitioner to put forth his claim, this Court is inclined to set aside the impugned order dated 23.04.2024 passed by the respondent, however, with certain conditions, as suggested by the learned Special Government Pleader for the respondent.

10. Accordingly, this Court is inclined to issue/pass following orders/directions:-

(i) The impugned order dated 23.04.2024 is set aside, subject to the condition that the petitioner deposits additional 15% of the disputed tax (over and above the statutory deposit of 10%), within a period of two 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) Upon such payment, the petitioner shall file their reply/objection along with the required documents, if any, within a period of four 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 for 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.

11. With the above directions, this Writ Petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

17-04-2025

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

To

Deputy State Tax Officer-I (FAC)
Poonamalle Assessement Circle,
Station 4/109, 3rd Floor,
Bangalore Chennai Highway, Varadarajapuram, Nazarathpet,
Chennai 600 123.

KRISHNAN RAMASAMY J.

jd

WP No. 13507 of 2025

17-04-2025