IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-04-2025

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THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 12454 of 2025
AND
WMP NO. 14042 OF 2025,WMP NO. 14043 OF 2025

Tvl.Hamid International,
Rep. by its Prop. J.Amanullah,
180, Broadway, 2nd floor,
Chennai- 600108.

Petitioner(s)

Vs

The State Tax Officer,
Sirkali Assessment Circle, Sirkali,
Mayiladuthurai District.

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 of the respondent in TIN 33804000659/ 2014-15 dated 19.07.2023 and to quash the same as illegal, arbitrary and against the principles of natural justice.

For Petitioner(s): Mr.A.Chandrasekaran

For Respondent(s): Mr.C.Harsha Raj,
Special Government Pleader (t)

ORDER

This writ petition has been filed by the petitioner seeking to call for the records of the respondent in TIN 33804000659/ 2014-15 dated 19.07.2023 and to quash the same as illegal, arbitrary and against the principles of natural justice.

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 admission stage itself.

4.Learned counsel for the petitioner would submit that the petitioner is engaged in the business of exporting agricultural products. He started the business in the year 1991 at Sirkali and later during the year 2016, he shifted his business to Chennai after properly intimating to the then jurisdictional Assessing Officer. While so, the respondent had sent the show cause notice and the impugned order dated 19.07.2023, pertaining to the assessment year 2014-15, to the petitioner's erstwhile business place at Sirkali. Therefore, the petitioner was not aware of the proceedings initiated against him and therefore he failed to file reply to the show cause notice. Consequently, an *ex parte* impugned order came to be passed. He would further submit that the petitioner is ready and willing to pay a sum of Rs.1,25,000/- out 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 Special Government Pleader 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 Rs.1,25,000/- out 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 Special Government Pleader 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 assessment order dated 19.07.2023 has been passed in *ex parte* against the petitioner. According to the petitioner, he is unaware of the proceedings initiated against him since the notices were sent to the petitioner erstwhile business place at Sirkali and therefore, he could not defend the case and therefore, seeks one more opportunity to substantiate his case before the respondent. Thus, this Court is of the view that the reason assigned by the petitioner for the non-filing of the reply, appears to be genuine. Therefore, this Court finds that there is a lack of opportunities being provided to serve the notices/orders etc., effectively to the petitioner. Hence, this Court is inclined to set-aside the impugned order with terms, by issuing the following directions:-

(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.

07-04-2025

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

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To

The State Tax Officer
Sirkali Assessment Circle, Sirkali,
Mayiladuthurai District.

KRISHNAN RAMASAMY J.

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