IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2025

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The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.13445 of 2025
and
W.M.P.Nos.15079 & 15082 of 2025

M/s.Colour Traders,
Represented by its Proprietor Mr.K.Karthikeyan,
New No.3/39, Gopanur Pudhur,
Kappalankarai, Kinathukaduvu TK,
Pollachi, Coimbatore,
Tamil Nadu 642 109
GSTN:33ELHPK7684A1Z2. ...Petitioner

Vs.

The Assistant Commissioner of GST & Central Excise,
Pollachi Division,
Jothi Nagar, Pollachi,
Tamil Nadu 642 001. ...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records of the respondent herein in its Impugned Order passed in Order in Original:S.I.No.04/2024-25(AC)(GST) dated 23.08.2024, along with consequential order in DRC-07 dated 23.08.2024 for the tax period 2019-20 and quash the same.

For Petitioner : Ms.R.Hemalatha

For Respondent : Mr.B.Ramanakumar
Senior Standing Counsel

Order

Mr.B.Ramanakumar, learned Senior Standing Counsel, takes notice on behalf of the respondent. By consent of the parties, the main Writ Petition is taken up for final disposal at the stage of admission itself.

2. The present Writ Petition is filed, challenging the impugned Order passed in Order in Original:S.I.No.04/2024-25(AC)(GST) dated 23.08.2024, along with consequential order in Form DRC-07 dated 23.08.2024 relating to the tax period 2019-20.

3. It is submitted by the learned counsel for the petitioner that the petitioner is engaged in the supply of goods falling under HSN Code: 1513-Coconut (Copra) & 5305-Coconut, Abaca, Ramie and other Vegetable Textile Fibers and registered under Goods and Service Tax Act, 2017.

During the relevant period 2019-2020, the petitioner had filed its return and paid appropriate taxes. While so, on scrutiny of the returns under Section 61 of the Act, certain defects were noticed in respect of the assessment year 2019-20. Pursuant thereto, a notice in Form ASMT-10 was issued to the petitioner, directing the petitioner to clarify the discrepancies. The petitioner had submitted its reply to the Assessing Officer clarifying all the discrepancies with proper documentary evidences. However, the Assessing Officer partly considered the reply filed by the petitioner and thereby initiated proceedings under Section 73 of the Act and had issued a show cause notice in Form DRC-01 to the petitioner, directing the petitioner to submit a reply to the show cause notice or pay the tax dues as proposed. In response, the petitioner's Authorized representative has appeared before the officer and clarified about the proceedings already initiated by the SGST authorities with same discrepancies and also challenge made before this Court in W.P.Nos.10119 of 2024 etc., batch. In the said batch, this Court, after hearing both the parties, remanded the matter back to the Assessing Officer for *de novo* proceedings. But the respondent without considering the same, passed the impugned Order in Original dated 23.08.2024 along with consequential order in DRC-07 dated 23.08.2024 for the tax period 2019-20. Aggrieved by the same, the petitioner had filed the present Writ Petition.

4. It was further submitted that the petitioner is ready and willing to pay 25% of the disputed tax and that they may be granted one final opportunity before the adjudicating authority to put forth their objection to the proposal, to which the learned Senior Standing Counsel appearing for the respondent does not have any serious objection.

5. Considering the above submissions made by the learned counsel on either side and taking into consideration the undertaking given by the petitioner, this Court is inclined to set-aside the impugned order with terms, by issuing the following directions:-

i) The impugned orders dated 23.08.2024 passed by the respondent are set aside and the matter is remanded to the respondent for fresh consideration.

ii) The petitioner shall deposit 25% of the disputed tax, as admitted by the learned counsel for the petitioner and accepted by the learned counsel for the respondent, within a period of two weeks from the date of receipt of a copy of this order.

iii) Thereafter, the petitioner is directed to file a reply along with supportive documents within a period of two weeks.

iv) Thereupon, the respondent is directed to consider the reply and shall issue a clear 14 days notice, afford an opportunity of personal hearing to the petitioner and shall decide the matter in accordance with law.

v) If there is any recovery by way of attachment of Bank account or garnishee proceedings, the same shall be lifted /withdrawn on complying with the above condition viz., payment of 25 % of the disputed taxes.

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

17.04.2025

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Index : yes/no
Neutral Citation : yes/no

Krishnan Ramasamy,J.,

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To
The Assistant Commissioner of GST & Central Excise,
Pollachi Division,
Jothi Nagar, Pollachi,
Tamil Nadu 642 001.

W.P.No.13445 of 2025

17.04.2025