IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-04-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 13469 of 2025
AND
WMP NOS. 15113 & 15114 OF 2025

Tvl. Sasi Enterprises,
Rep. By Its Proprietor
R. Panneerselvam,
6/25, Kulathupalayam,
Varapatti, Sulur 641 669.

Petitioner(s)

Vs

1. The Assistant Commissioner (ST)
Palladam 1 Assessment Circle,
Tiruppur.

2.The Deputy State Tax Officer - II
O/o Commercial Tax Officer,
Palladam -II, Assessment Circle,
Palladam.

Respondent(s)

PRAYER: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records on the files of 1st Respondent in Impugned Order vide REF:33ACYFS0796B1ZS /2018-19 dated 27.04.2024 along with consequential order in Form GST DRC-07 bearing a Ref No.: ZD330424218270X dated 27.04.2024 for the tax period April, 2018 to March 2019 and quash the same as arbitrary, against the principles of natural justice.

For Petitioner(s): Mr.Vignesh Kumar K

For Respondent(s): Mr.T.N.C.Kaushik,
Additional Government Pleader
(tax)

ORDER

Mr.T.N.C.Kaushik, learned Additional Government Pleader, who 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 orders dated 27.04.2024 passed by the first respondent relating to the tax period April 2018 to March 2019.

3. The learned counsel for the petitioner would submit that the petitioner is the assessee on the file of the first respondent and is registered under the Tamil Nadu Goods and Services Tax Act, 2017. During the relevant period, the petitioner had filed its return and paid appropriate taxes. While so, the petitioner's return was scrutinized under Section 61 of the Act by the 2nd respondent and Form ASMT-10 dated 12.11.2021 was issued citing the following discrepancies:

(i) ITC difference between GSTR 3B and GSTR 2A

(ii) TDS turnover mismatch between GSTR 7 and GSTR 1

(iii) Interest for belated payment of returns for the year 2018-19

(iv) TDS Turnover mismatch between GSTR 7 and GSTR-3B.

4. Pursuant thereto, the petitioner had submitted its reply vide ASMT-11 dated 14.12.2021, explaining the TDS mismatch discrepancies. However, without considering the reply submitted by the petitioner, the 2nd respondent had issued show cause notice in Form DRC-01 dated 11.01.2022. The petitioner had filed its detailed reply dated 07.03.2022. When the proceedings were pending before the 2nd respondent, the 1st respondent had issued another show cause notice in Form DRC-01 dated 26.12.2023, stating various discrepancies. The petitioner could not file their reply to the show cause notice dated 26.12.2023 issued by the first respondent. As the 2nd respondent has not passed any orders on the issues after the reply filed by the petitioner dated 07.03.2022, the petitioner was under the impression that the said proceedings were dropped and no liability had been determined. However, the first respondent had passed the impugned orders dated 27.04.2024, confirming the proposal made in the show cause notice.

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 order and remand the matter back to the Authority for fresh consideration.

5. The learned Additional Government Pleader (Tax) 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 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 order dated 27.04.2024 is set aside and the matter is remanded to the first respondent for fresh consideration.

ii) The petitioner is directed to deposit 25% of the disputed tax, as admitted by the learned counsel for the petitioner and accepted by the learned counsel for the respondents, 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 first 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.

7. With the above 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
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No

To

1. The Assistant Commissioner (ST)
Palladam 1 Assessment Circle, Tiruppur.

2.The Deputy State Tax Officer - II
O/o Commercial Tax Officer,
Palladam -II, Assessment Circle, Palladam.

KRISHNAN RAMASAMY J.

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