IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.04.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.15356 of 2025
& W.M.P.Nos.17356 & 17357 of 2025

M/s.S K Brothers,
Rep by its Partner, Ashwin Bagdi,
No.38/13, Lakshmi Estates, Errabalu Chetty Street,
Parrys, Chennai 600 001

... Petitioner

Vs.

The Deputy State Tax Officer,
Broadway Assessment Circle,
No.32, Integrated Commercial Taxes Office Complex,
Room No.305, 3rd Floor, Elephant Gate Bridge Road,
Vepery, Chennai 600 003

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the respondent in his proceedings in GSTIN 33AAAFS9316F1ZE/2018-19 and quash the order dated 29.04.2024.

For Petitioner : Mr.P.V.Sudakar

For Respondent : Ms.P.Selvi,
Government Advocate

ORDER

This writ petition has been filed challenging the impugned order dated 29.04.2024 passed by the respondent.

2. Ms.P.Selvi, learned Government Advocate, takes notice on behalf of the respondent. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that in this case, in this case, initially, the ASMT notice and the show cause notice were issued by the respondent on 11.05.2023 and 27.06.2023, for which, the detailed replies were filed by the petitioner on 10.08.2023 & 25.07.2023 respectively. Thereafter, the impugned assessment order came to be passed by the respondent, whereby they had confirmed the levy of tax, interest and penalty on the ground that the credit note values and its ITC reversal were not reflected in GSTR-9 annual return. Hence, he would contend that the demand raised in the impugned order is wrong and unsustainable and prays this Court to set aside the said impugned order.

4. On the other hand, the learned Government Advocate appearing for the respondents had strongly opposed for the request made by the petitioner and would submit that in this case, the impugned order came to be passed by the respondent after providing sufficient opportunities to the petitioner. Further, she would submit that if the petitioner is aggrieved over the original order, the only recourse available to them is to file an appeal against the same.

5. In reply, the learned counsel for the petitioner would submit that the time limit for filing the appeal has already been expired. Hence, he requests this Court to condone the delay and grant liberty to file an appeal against the assessment order. Further, he would submit that he is willing to pay 25% of the disputed tax amount to the respondent, i.e., 10% towards statutory pre-deposit for filing the appeal along with additional 15% to condone the delay. Hence, he requests this Court to pass appropriate orders.

6. The learned Government Advocate appearing for the respondent has acceded to the above submission made by the learned counsel for the petitioner and requests this Court to pass any appropriate orders with regard to the filing of appeal.

7. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondent and also perused the materials available on record.

8. In the case on hand, initially, the ASMT notice and the show cause notice were issued by the respondent on 11.05.2023 and 27.06.2023, for which, the detailed replies were filed by the petitioner on 10.08.2023 & 25.07.2023 respectively. Subsequently, the impugned assessment order came to be passed by the respondent on 29.04.2024 after affording the opportunity of personal hearing to the petitioner. When such being the case, it is clear that the respondent has provided sufficient opportunities to the petitioner prior to the passing of impugned

order and hence, no question would arise with regard to the violation of principle of natural justice.

9. Further, it was submitted that the petitioner is now willing to pay 25% of the disputed tax amount to the respondent. Therefore, though this petition has been filed challenging the impugned order dated 19.08.2024, considering the submissions made by the petitioner, this Court is inclined to dismiss the present petition by granting liberty to the petitioner to file an appeal against the impugned assessment order.

10. Accordingly, this writ petition is dismissed. No costs. Consequently, the connected miscellaneous petitions are also closed.

11. While dismissing this petition, this Court grants liberty to the petitioner to file an appeal, against the assessment order dated 29.04.2024, before the concerned Appellate Authority, within a period of 30 days from the date of receipt of copy of this order, subject to the payment of 25% of the disputed tax amount to the respondent (10% of

disputed tax amount towards statutory pre-deposit for filing the appeal along with additional 15% of disputed tax amount). In such case, the Appellate Authority shall consider the said appeal filed by the petitioner on its own merits and in accordance with law, by providing sufficient opportunity to the petitioner, without pressing for limitation.

29.04.2025

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

To

The Deputy State Tax Officer,
Broadway Assessment Circle,
No.32, Integrated Commercial Taxes Office Complex,
Room No.305, 3rd Floor, Elephant Gate Bridge Road,
Vepery, Chennai 600 003

KRISHNAN RAMASAMY.J.,

nsa

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