



W.P.No.15029 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated : 25.04.2025

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.15029 of 2025
& W.M.P.Nos.16933, 16938 & 16940 of 2025

Tantech Traders,
Rep by its Partner, Ms.Gokila Thangavel,
No.25, Nakkeerar Street, Subramania Nagar,
Salem, Tamil Nadu

... Petitioner

Vs.

1.State Tax Officer Arisipalayam Circle,
Room No.418, 4th Floor,
Integrated Commercial Taxes Building,
Pitchards Road, Salem, Tamil Nadu

2.The Branch Manager,
Indian Bank,
No.31-1 Junction Leigh Bazaar Road,
Salem, Tamil Nadu.

... 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 pertaining to the impugned order dated 14.05.2024 with the Ref.No.ZD330524103 885G on the file of the 1st respondent and quash the same.



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For Petitioner : Mr.Ramamurthy S.

For Respondent : Ms.P.Selvi,
Government Advocate for R1

ORDER

This writ petition has been filed challenging the impugned order dated 14.05.2024 passed by the 1st respondent.

2. Ms.P.Selvi, learned Government Advocate, takes notice on behalf of the 1st respondent. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel appearing for the petitioner would submit that in this case, the show cause notice was issued by the respondent on 14.08.2023, whereby they had demanded a sum of Rs.3,76,316/- towards tax. Thereafter, a detailed reply was filed by the petitioner on 07.09.2023 & 21.09.2023. However, while passing the impugned order, the respondent had raised a demand for a sum of Rs.5,61,982/- towards tax, which was not proposed either in the aforesaid show cause notice or in



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any manner, due to which, no opportunity was provided to the petitioner to explain their case on the said aspect. Hence, he would contend that in non-application of mind, the respondent had passed the impugned order, which travels beyond the scope of show cause notice dated 14.08.2023 and requests this Court to set aside the said impugned order.

4. Further, he would submit that the petitioner is willing to pay 25% of the disputed tax amount to the respondent as demanded in the show cause notice dated 14.08.2023. Hence, he requests this Court to grant an opportunity to the petitioner to present their case before the respondent by setting aside the impugned order.

5. In reply, the learned Government Advocate appearing for the 1st respondent had also confirmed the aforesaid contentions and would fairly admit that the impugned order has been passed beyond the scope of show cause notice. Hence, she requests this Court to pass appropriate orders.



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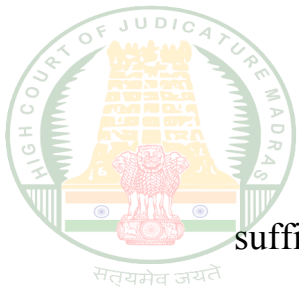
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6. Heard the learned counsel for the petitioner and the learned Government Advocate for the 1st respondent and also perused the materials available on record.

7. In this case, there is no dispute on the aspect that the impugned order dated 14.05.2024 was passed by the respondent beyond the scope of show cause notice dated 14.08.2023.

8. Normally, if any discrepancy is traced out, the respondents are supposed to have pointed out the same to the petitioner and provided sufficient opportunity to them to present their case. However, in this case, all of a sudden, the respondents had raised a demand of a sum of Rs.5,61,982/- towards tax, for the very first time, while passing the impugned assessment order, which is a clear violation of principles of natural justice.

9. For all the reasons stated above, this Court is of the considered view that it is a fit case to interfere on the aspect of non-providing of



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sufficient opportunity to the petitioner. In such view of the matter, this Court is inclined to set aside the impugned order.

10. Further, it was submitted by the learned counsel for the petitioner that the petitioner is willing to deposit 25% of the disputed tax amount as demanded by the respondent in the show cause notice dated 14.08.2023. Therefore, this Court passes the following order:-

(i) The impugned order dated 14.05.2024 is set aside and the matter is remanded to the 1st respondent for fresh consideration on condition that the petitioner shall pay 25% of disputed tax amount to the respondent, as demanded in the show cause notice dated 14.08.2023, within a period of four weeks from the date of receipt of copy of this order. The setting aside of the impugned order will take effect from the date of payment of the said amount.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of three weeks from the date of payment as stated above.

(iii) On filing of such reply/objection by the petitioner, the 1st respondent shall consider the same



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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.

(iv) Considering the fact that the impugned order itself has been set aside, this Court is of the opinion that the attachment made on the bank account of the petitioner cannot survive any longer and hence, it is to be lifted. As a sequel, the 2nd respondent is directed to release the attachment, and de-freeze the bank account of the petitioner, immediately upon the production of a copy of this order.

11. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

25.04.2025

Speaking/Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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To
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