IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.04.2025

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.15149 of 2025
& W.M.P.Nos.17071 & 17074 of 2025

K.Muthukumar

... Petitioner

Vs.

The State Tax Officer,
Roving Squad II, Office of Joint Commissioner (ST)(Intelligence),
Erode

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the Impugned summary order dated 10.12.2024 vide reference No. ZD3312240836400 passed by the Respondent and Impugned Detail order dated 10.12.2024 vide Case ID No. AD3309240196044 passed by the Respondent Under Section 74 (9) of the GST Act, 2017 and quash the same as arbitrary, against the principles of natural justice and total inconformity with the provisions of the GST ACT,2017 and consequently direct the respondent to waive the interest and penalty imposed by the respondent.

For Petitioner	:	Mr.Vasanthanayagan K
For Respondent	:	Ms.K.Vasanthamala, Government Advocate

ORDER

This writ petition has been filed challenging the impugned assessment order dated 10.12.2024 passed by the respondent.

2. Ms.K.Vasanthamala, 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, initially, the show cause notice was issued by the respondent, for which, a detailed explanation has been filed by the petitioner. According to the petitioner, due to lack of knowledge and non-cooperation from the Accountant, they were unable to declare full fledged monthly returns.

Thereafter, without providing any opportunity of personal hearing and without properly considering the explanation provided by the petitioner, the impugned assessment order came to be passed by the respondent, which is a clear violation of principles of natural justice.

4. Further, he would submit that the petitioner is willing to pay 25% of the disputed tax amount to the respondents. 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. On the other hand, the learned Government Advocate appearing for the respondents would submit that though the respondent had issued the show cause notice, no proper reply was filed by the petitioner. However, she has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned orders. Therefore, she requested this Court to remit the matters back to the respondent, subject to the payment of 25% of the disputed tax amount by the petitioner.

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

7. In the case on hand, initially, the show cause notice was issued by the respondent, for which, a detailed explanation was filed by the petitioner. However, the same was not considered by the respondent while passing the impugned order.

8. Further, it is evident that the impugned assessment order came to be passed without affording any opportunity of personal hearing to the petitioner, confirming the proposals contained in the show cause notice. Normally, if the respondents are intend to pass an adverse order against an Assessee, it is mandatory for them to provide sufficient opportunity to the Assessee prior to the passing of assessment order. However, in this case, no such opportunity was provided prior to the passing of impugned order. In such view of the matter, it is clear that the impugned order is

not only in contrary to the provisions of Section 75(4) of the GST Act, but also in violation of principles of natural justice.

9. That apart, it was submitted by the learned counsel for the petitioner that the petitioner is willing to pay 25% of the disputed tax amount to the respondent. In such view of the matter, this Court is inclined to set aside the assessment order dated 10.12.2024 passed by the respondent. Accordingly, this Court passes the following order:-

> (i) The impugned assessment order dated 10.12.2024 is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay 25% of disputed tax amount to the respondents within a period of four weeks from the date of receipt of a copy of this order. The setting aside of the impugned order will take effect from the date of payment of the said amount.
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> (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 of amount as stated above.

(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.

(iv) Considering the fact that the impugned orders itself have 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 respondent is directed to instruct the concerned bank to release the attachment, and de-freeze the bank account of the petitioner, immediately upon the production of a copy of this order.

10. With the above directions, this writ petition is disposed of. No

costs. Consequently, the connected miscellaneous petitions are also closed.

29.04.2025

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

To

The State Tax Officer,
Roving Squad II,
Office of Joint Commissioner (ST)(Intelligence),
Erode

KRISHNAN RAMASAMY.J.,

nsa

W.P.No.15149 of 2025
and W.M.P.Nos.17071 & 17074 of 2025

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