IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 10.06.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.16850 of 2025
and
W.M.P.Nos.19105 & 19111 of 2025

K.Muthukumar ...Petitioner

Vs.

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

...Respondent

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for records of the impugned summary order dated 10.12.2024 vide Ref No.ZD331224084035Q passed by the respondent and the impugned detailed order dated 10.12.2024 vide Case ID No.AD330924021113L passed by the respondent under Section 74 (9) of the GST Act, 2017 and to quash the same as arbitrary, against the principles of natural justice and total inconformity with the provisions of the GST Act, 2017 and consequently, to direct the respondent to waive the interest and penalty imposed by the respondent.

For Petitioner : M/s.R.Reshma
For Respondent : Mrs.K.Vasanthamala

Government Advocate (T)

Order

Heard M/s.R.Reshma learned counsel appearing for the petitioner and Mrs.K.Vasanthamala, learned Government Advocate (T) who takes notice on behalf of the respondent. 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 summary order dated 10.12.2024 passed by the respondent and the detailed order dated 10.12.2024 passed under Section 74 (9) of the GST Act, 2017 and to quash the same as arbitrary, consequently, to direct the respondent to waive the interest and penalty imposed by the respondent.

3. The learned counsel appearing for the petitioner would submit that the respondent issued a show cause notice in DRC-01A under Section 74 (1) of the Act dated 24.09.2024 to the petitioner fixing the date of personal hearing on 24.10.2024, the petitioner, due to lack of knowledge and non-cooperation from the Accountant could not file reply and requested the respondent to grant 30 days' time; that the respondent though considered the said request, granted only 15 days; that thereafter, the petitioner requested for further time for production of relevant documents, but the respondent without considering such request proceeded to confirm the proposal contained in the show cause notice without even affording an opportunity of hearing to the petitioner.

3.1 Therefore, the learned counsel submits that the impugned orders suffer from violation of principles of natural justice, however, the learned counsel fairly submitted that, in the event, this Court is inclined to set aside the impugned orders, the petitioner is ready and willing to deposit 25% of the disputed tax and hence, prays for setting aside the impugned orders and remanding the matter back to the respondent for fresh consideration.

4. The learned Government Advocate (T) for the respondent fairly submitted that since the petitioner has come forward to deposit 25% of the disputed tax, the prayer sought for by the petitioner may be considered.

5. I have given due considerations to the submissions made on either side and perused the materials available on record.

6. In the case on hand, there is no dispute on the aspect that the respondent has considered the petitioner's request and granted 15 days' time for filing reply, however, so far as the subsequent request made by the petitioner for grant of time to produce the documents was concerned,the respondent refused to consider the said request and proceeded to confirm the proposals contained in the show cause notice and passed the impugned orders, without even hearing the petitioner. Therefore, as rightly pointed out by the learned counsel for the petitioner, the impugned order suffers from violation of principles of natural justice. Thus, once the order is passed in violation of principles of natural justice, this Court cannot impose any condition requiring the petitioner to make any deposit, however, since the petitioner, themselves, have voluntarily come forward to deposit 25% of the disputed tax, to which, the learned Government Advocate is also agreable, this Court is inclined to pass/issue the following orders/directions:-

i) The impugned summary order dated 10.12.2024 passed by the respondent and the impugned detailed order dated 10.12.2024 passed under Section 74 (9) of the GST Act, 2017 are set aside.

ii) Consequently, the matter is remanded to the respondent for fresh consideration.

iii) The petitioner is granted liberty to deposit 25% of the disputed tax, which the petitioner themselves have voluntarily came forward to make such payment within a period of three weeks from the date of receipt of a copy of this order.

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

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

vi) So far as the bank attachment order is concerned, upon production of proof with regard to the payment of 25% of the disputed tax made by the petitioner, the respondent-Department is directed to pass appropriate orders towards de-freezure of the petitioner's ban[k account forthwith and permit the petitioner to operate the bank account.

7. In the result, the Writ Petition is allowed on the aforesaid terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

10.06.2025

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Index : yes/no
Neutral Citation : yes/no

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

Krishnan Ramasamy,J.,

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W.P.No.16850 of 2025

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