IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-06-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 16823 of 2025
AND
WMP NO. 19068 OF 2025,WMP NO. 19071 OF 2025

Muthukumar,
S/o. Kaliyappan ,
No. 45/37 Main Raod, Elathur,
Erode - 638 458.

Petitioner(s)

Vs

The State Tax Officer,
Rooving Squard II,
Office Of The Joint Commissioner (ST) Intelligence,
Erode.

Respondent(s)

PRAYER:-Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorarified Mandamus, to call for the records of the Impugned summary order dated 10.12.2024 vide reference No. ZD331224083753F passed by the Respondent and Impugned Detail order dated 10.12.2024 vide Case ID No. AD330924019683Y 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 and pass

For Petitioner(s): Mr.Vasanthanayagan K

For Respondent: Mrs.K.Vasanthamala
Government Advocate

ORDER

This writ petition has been filed by the petitioner challenging the impugned assessment order dated 10.12.2024 passed by the respondent, for the Financial Year 2019-2020.

2.Mrs.K.Vasanthamala, learned Government Advocate (Taxes), takes notice on behalf of the respondent.

3.By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

4.Learned counsel for the petitioner would submit that the show cause notice dated 24.09.2024 was issued to the petitioner directing the petitioner to pay the amount specified in the notice along with interest and penalty. The petitioner submitted their explanation for the show cause notice and sought some more time for filing detailed reply. However, the respondent passed the impugned assessment order dated 10.12.2024 without providing an opportunity to the petitioner to put forth their case. He would further submit that the petitioner is ready and willing to pay 25% of the disputed tax demand in respect of the impugned assessment period and prayed to set aside the impugned order directing the respondent to permit the petitioner to file their reply and provide an opportunity of personal hearing so that the petitioner would be able to substantiate their case.

5.Learned Government Advocate appearing for the respondent would submit that the respondent provided sufficient time for filing reply. However, the petitioner failed to furnish their reply. He would further submit that as per the voluntary submissions made by the learned counsel for the petitioner, subject to the deposit of 25% of the disputed tax demand by the petitioner in respect of the impugned assessment period, if the Court feels it appropriate and it is a fit case for re-consideration, this Court may consider and pass orders.

6.Heard the learned counsel appearing for the petitioner as well as the learned Government Advocate appearing for the repondent and perused the materials available on record.

7.A perusal of the impugned order would show that DRC -01 was issued to the petitioner on 24.09.2024. Thereafter, the petitioner sought 30 days time for filing their detailed reply and thereafter, again on 02.12.2024, the petitioner sought another 15 days time for filing reply. However, the petitioner had failed to file their reply. Therefore, the impugned assessment order dated 10.12.2024 came to be passed. According to the petitioner, due to lack of knowledge and non-co-operation of the accountant, they could not file their reply in time. In the present case, since no reply has been filed by the petitioner, the respondent passed the impugned order dated 10.12.2024. In the absence of any reply from the petitioner, the respondent passed the impugned order. The petitioner due to non-filing of the reply, on its own act has invited the *ex parte* impugned order. However, in the interest of justice, this Court is inclined to provide one more opportunity to the petitioner to put forth their case before the respondent. Accordingly, this Court passes the following order:-

(i) The order impugned herein is set aside on condition that the petitioner deposits 25% of the disputed tax amount in respect of the impugned assessment period, as agreed by the petitioner, within a period of four weeks from the date of receipt of a copy of this order.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks thereafter.

(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) Upon production of proof with regard to the payment of 25% of the disputed tax made by the petitioner, the first respondent-Department is directed to issue appropriate direction on the petitioner's banker towards de-freezure of the petitioner's bank account forthwith.

8.With the above directions, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

03-06-2025

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

To

The State Tax Officer,
Rooving Squard II,
Office Of The Joint Commissioner ST
Intellignece, Erode.

KRISHNAN RAMASAMY J.

rst

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