IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.11.2025

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.18567 of 2025
and
WMP.No.20836 of 2025

Esarams Bio Tech
Represented by its Managing Partner
Mr.N.P.Shanmugam
No.1/6, Nandhavana Thottam
Puduchatram Post
Namakkal 637 018. ...Petitioner

Vs.

State Tax Officer RS-II/Adjudication Intelligence,
Salem, 3rd Floor, Commercial Taxes Office Building
Pitchards Road, Hasthampatti
Salem – 636 007. ...Respondent

Prayer: This Writ Petition is filed under article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records relating to the impugned order dated 04.02.2025 bearing reference No. 33AADFE558B1ZQ/2017-18 issued by the respondent and quash the same.

For Petitioner : Ms.Disha Jain

For Respondent : Mr.C.Harsharaj
Special Government Pleader

ORDER

In this Writ Petition, the Petitioner has challenged the order dated 04.02.2025 on 23.04.2025 well within the period prescribed for filing an appeal before Appellate Forum.

2. The impugned order was preceded by a notice in GST DRC-01 dated 27.09.2023 followed by the personal hearing notice dated 21.12.2023 and 31.01.2025. Since the petitioner failed to respond to the same, impugned order has been passed on 04.02.2025.

3. The limitation for filing an appeal under Section 107 of the respective GST enactments, 2017 against the impugned Order has now expired during the pendency of this Writ Petition.

4. The learned counsel for the petitioner would submit that the petitioner is engaged in collection of municipal waste & supply of organic

fertilizer which are exempted in terms of **Notification No.2/2017-CT** dated **28.06.2017** for fertilizer and for municipal waste **Notification No.12 of 2017 (CT-Rate)** dated **28.06.2017**. The learned counsel for the petitioner further submitted that there is no tax liability on the petitioner on the activity carried out by the petitioner and therefore, the impugned demand that it has been confirmed against the petitioner is to be set aside and the case is remitted back to the respondent.

5. However, it is noticed that the impugned order has also preceded by several notices including the notice in DRC-01 personal hearing notice mentioned above. However, the petitioner failed to respond to the same and thus, the exemption had been disallowed on the ground that the petitioner has not produced any documents as a proof to establish the claim for the above exemption.

6. Under similar circumstances, Orders have been quashed and cases have been remitted back to pass a fresh order on terms subject to such Assessee depositing 10% to 100% of the disputed tax depending upon the length of delay in approaching the Court. I do not find any reason to take a different view in this case.

7. Therefore, to balance the interest of both parties viz., the Assessee and the Revenue, the case is remitted back to the Respondent to pass a fresh order subject to the Petitioner depositing 10% of the disputed tax in cash from the Petitioner's Electronic Cash Register within a period of thirty (30) days from the date of receipt of a copy of this order.

8. Within such time, the Petitioner shall also file a reply to the Show Cause Notice in GST DRC-01 dated 27.09.2023 together with requisite documents to substantiate the case by treating the impugned Order dated 04.02.2025 as an addendum to the Show Cause Notice dated 27.09.2023.

9. In case the Petitioner complies with the above stipulations, the Respondent shall proceed to pass a final order on merits and in accordance with law as expeditiously as possible, preferably, within a period of three (3) months of such reply/pre-deposit. Subject to the Petitioner complying with the above stipulations, the attachment of the bank account of the Petitioner shall also stand automatically vacated.

10. It is made clear that bank attachment if any shall be lifted subject to the deposit of 10% of the disputed tax as ordered above and petitioner not being in arrears of any other amount barring the amount demanded vide the impugned Order.

11. In case the Petitioner fails to comply with any of the stipulations, the Respondent is at liberty to proceed against the Petitioner to recover the tax in accordance with law as if this Writ Petition was dismissed *in limine* today.

12. Needless to state, before passing any such order, the 1st Respondent shall give due notice to the Petitioner.

13. This Writ Petition stands disposed of with the above observations. No costs. Connected Writ Miscellaneous Petitions is closed.

05.11.2025

Index : Yes/No
Speaking order : Yes/No
Neutral Case Citation : Yes/No
dna

C.SARAVANAN, J.

dna

To

The State Tax Officer RS-II/Adjudication Intelligence,
Salem, 3rd Floor, Commercial Taxes Office Building
Pitchards Road, Hasthampatti
Salem – 636 007.

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