IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.06.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.Nos.15877 & 15883 of 2025
& W.M.P.Nos.17965, 17967, 17972 & 17973 of 2025

Tvl GD Associates
represented b its proprietrix diwakar prabitha
C 485, 46th street, Ashok Nagar, Tamilnadu-
600 083C 485, 46th street, Ashok Nagar,
Tamilnadu- 600 083

... Petitioner in both cases

Vs.

The State Tax Officer
Kodambakam Assessment Circle Central III
Chennai

... Respondent in both cases

Common Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records on the files of the Respondent herein vide No. 33AXLPP6987B1Z3/2018-19 dated 9th April, 2024 & 33AXLPP6987B1Z3/2018-19 dated 5th March, 2025 issued along with the summary of the order in GST-DRC 07 no. ZD330424095022R dated 12th April, 2024 & ZD330325022109U dated 5th March, 2025 passed for the tax period between April 2018 to March

2019, quash the same.

For Petitioner
in both petitions : Ms.S.Vishnupriya

For Respondent
in both petitions : Mr.V.Prashanth Kiran,
Government Advocate

COMMON ORDER

These writ petitions have been filed challenging the impugned assessment order dated 09.04.2024 and the impugned rejection order dated 05.03.2025 passed by the respondents.

2. Mr.V.Prashanth Kiran, learned Government Advocate, takes notice on behalf of the respondent in both the petitions. By consent of the parties, the main writ petitions are taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that in this case, the show cause notice was issued by the respondent on 05.10.2023, for which a detailed reply, along with all the necessary documents, was filed by the petitioner on 03.11.2023. However, without considering the said reply, the respondent passes the impugned assessment order as *"ex-parte"*. Therefore, it is clear that the petitioner's reply was not at all considered by the respondent while passing the impugned assessment order. Aggrieved over the said order, a rectification application was filed by the petitioner, however, the same was rejected by the respondent vide impugned rejection order dated 05.03.2025. Therefore, these petitions have been filed.

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

5. In reply, the learned Government Advocate appearing for the respondent would fairly submit that in this case, the reply filed by the petitioner was not at all considered by the respondent while passing the impugned assessment order. Further, he would submit that the rectification application will only be considered if there is any error apparent on the original order. Hence, he would contend that the respondent had rightly rejected the rectification application. Therefore, he requested this Court to remit the matter 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 and the learned Government Advocate for the respondent and also perused the materials available on record.

7. In this case, it is clear that the show cause notice was issued by the respondent on 05.10.2023, for which, the reply was filed by the petitioner on 03.11.2023. However, the said reply was not considered by the Assessing Officer while passing the impugned assessment order. Aggrieved over the same, a rectification application was filed by the

petitioner and the same was also dismissed vide the rejection order.

8. Further, it appears that the impugned order came to be passed by the respondent without providing any opportunity of personal hearing to the petitioner, which is a clear violation of principles of natural justice and hence, the said assessment order is liable to be set aside. However, as contended by the learned Government Advocate, the said aspect cannot be considered in a rectification application since, a rectification application will be entertained only if there is any error apparent on the original order. In such case, the respondent has rightly rejected the rectification application vide order dated 05.03.2025 and the same requires no interference of this Court.

9. Further, 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 impugned assessment order dated 12.04.2024 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 12.04.2024 is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay 25% of the disputed tax amount to the respondent 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.

(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.

10. With the above directions, the writ petition in W.P.No.15877 of 2025, which was filed challenging the assessment order, is disposed of. No costs. Consequently, the connected miscellaneous petitions are

also closed.

11. In view of the order passed above, the writ petition in W.P.No.15883 of 2025, which was filed against the rejection order, is closed. No costs. Consequently, the connected miscellaneous petitions are also closed.

10.06.2025

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

To

The State Tax Officer
Kodambakam Assessment Circle Central III
Chennai

KRISHNAN RAMASAMY.J.,

nsa

W.P.Nos.15877 & 15883 of 2025
and W.M.P.Nos.17965, 17967, 17972 & 17973 of 2025

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