IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-06-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 16558 of 2025
AND
WMP NO. 18719 OF 2025,WP NO. 18166 OF 2025,WMP NO. 20348 OF 2025

The Tamil Nadu Power Distribution Corporation Ltd.,
(Previously Tamil Nadu Generation and Distribution Corporation Ltd)
Rep. by its Authorized Signatory,
7th and 10th Floor, East Wing, NPKKR Maaligai,
Anna Salai, Chennai 600 002.

Petitioner in both W.Ps

Vs

1.Joint commissioner of Income Tax,
TDS Circle 3(1), Chennai.

2.The Commissioner of Income Tax (TDS),
Chennai.

Respondents in both W.Ps

PRAYER in WP No. 16558 of 2025:- Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, to call for the records of the case and quash the Impugned Order passed under Section 201/201(1A) of the Income Tax Act, 1961, dated 29.03.2025 in DIN and Notice No CHE/CT/153/ 1/29032025/ 00221 for the Assessment Year 2018-19 PAN AADCT4784E.

PRAYER in WP No. 18166 of 2025:-Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, to call for the records of the case and quash the Impugned Order passed under Section 201/201(1A) of the Income Tax Act, 1961, dated 29.03.2025 in DIN and Notice No. CHE/CT/153/1/29032025/00212 for the Assessment Year 2019-20 in PAN. AADCT4784E or pass.

In both W.Ps

For Petitioner(s): Mr.P.S.Raman,
Senior Advocate
For M/s.Subbaraya Aiyar
Padmanabhan

For Respondent(s): Dr.B.Ramaswamy
Senior Standing Counsel

COMMON ORDER

These writ petitions have been filed by the petitioner challenging the impugned assessment orders dated 29.03.2025, passed by the 1st respondent, relating to the Assessment Years 2018-2019 and 2019-2020.

2.Mr.P.S.Raman, learned Senior Counsel assisted by Mr.Subbaraya Aiyar Padmanabhan, learned counsel for the petitioner would submit that the 1st respondent issued show cause notice on 24.03.2025, whereby directing the petitioner to file their reply to all the queries raised in the show cause notice on or before 26.03.2025. Since the petitioner was not in a position to file their reply on time, they filed their reply only on 28.03.2025, pointing that two days time granted for furnishing the reply is totally inadequate and requested to grant at least four weeks time to enable the petitioner to give a more detailed reply. On the same day, the respondent issued another show cause notice directing the petitioner to file reply by 29.03.2025 (5 PM). Without considering the request made by the petitioner on 28.03.2025, the 1st respondent passed the impugned assessment order on 29.03.2025.

3.Learned Senior Counsel would further submit that citing the limitation aspect, the impugned orders were passed hurriedly. If the respondents-Department was concerned about the limitation, they must have issued the show cause notice much earlier i.e at least three month before the passing of the impugned assessment orders. Since the respondents' Department delayed in initiating the proceeding, they cannot expect the petitioner to collect all data from 72 units across the state and give detailed reply within a period of two days. Therefore, the failure is on the part of the 1st respondent in providing adequate opportunity to the petitioner. However, learned Senior counsel would fairly submit that anyhow the respondents are ready and willing to a costs of Rs.5 Lakhs as per the direction of this Court.

4.Per contra, Dr.B.Ramaswamy, learned Senior Standing counsel appearing for the respondents by referring Paragraph Nos. XXVI, XXVII and XVIII of the counter affidavit would submit that ample opportunity was provided to the petitioner to file their reply. Initially a notice was issued on 07.03.2025, calling upon the details of power purchase, power generation, repairs & maintenance, employees cost and administration, for which the petitioner sought extension of time to file their reply. Thereafter, on 17.03.2025 the respondent issued a reminder notice to the petitioner to submit their details on or before 21.03.2025. On 19.03.2025, the respondent issued a notice requesting the petitioner to furnish the details of ongoing projects during the Financial Year 2017-18. However, the petitioner filed only a partial response on 21.03.2025 to the notice dated 07.03.2025. Thereafter, the show cause notices dated 24.03.2025 and 28.03.2025 was issued to the petitioner. However, the petitioner instead of filing reply repeatedly sought for extension of time. Therefore, the 1st respondent proceeded to pass orders. Hence, the contention of the petitioner that non-consideration of petitioner request is un-sustainable.

5.Learned Senior Standing Counsel would further submit that in the event the Court inclined to consider the plea of the petitioner, the same may be considered by imposing huge costs and by fixing a date for filing reply by the petitioner.

6.Heard the learned counsel for the petitioner as well as the learned Senior Standing Counsel appearing for the respondents and perused the materials of record.

7.Considering the submissions made by the learned Senior Counsel appearing for the petitioner as well as the learned Senior Standing Counsel appearing for the respondents, it is evident that according to the petitioner the 1st respondent issued show cause notice dated 24.03.2025 granting only two days time to file a reply. Despite the petitioner's request to grant four weeks time to furnish their reply, the respondent again issued a notice dated 28.03.2025 to show cause certain queries by 29.03.2025 (5 PM) itself and proceeded to pass the impugned assessment order dated 29.03.2025. However, the respondent's main reason for passing an assessment orders dated 29.03.2025 is that if the final orders were not passed on or before 31.03.2025, the entire proceedings will be barred by limitation.

8.Upon consideration, this Court unable to accept the submission made by the learned Senior Standing Counsel for the respondents for a simple reason that if limitation was a real intention for not granting time to the petitioner as requested by them to file their reply, the respondents must have initiated the proceeding much earlier. Therefore, this Court finds fault in the decision making process of the 1st respondent in not granting time to the petitioner to file their reply and passing the assessment order within 5 days from the date of issuance of show cause notice on the ground of limitation. Thus, this Court finds that there is a lack of opportunities being provided to the petitioner. Hence, this Court is inclined to set-aside the impugned orders with terms, by issuing the following directions:-

(i) The orders impugned herein are set aside and the matters are remanded back to the 1st respondent for fresh consideration on conditions that the petitioner deposits a sum of Rs.2 Lakhs (Rupees Two Lakhs only) to The Principal Government Naturopathy Medical College and Hospital, Account No.7883022723, IFSC Code: IDIB000M157 and a sum of Rs.3 Lakhs (Rupees Three Lakhs only) to the Mahesh Memorial Trust, No.42, Dr.Ranga Road, Mylapore, Chennai 600 004 as agreed by the petitioner, within a period of two 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 six weeks thereafter.

(iii) On filing of such reply/objection by the petitioner, the 1st 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 and without influencing any of the observations made in this order, as expeditiously as possible.

9.With the above directions, these writ petitions are allowed. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

18-06-2025

rst

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

To

1.Joint commissioner of Income Tax,
TDS Circle 3(1), Chennai.

2.The Commissioner of Income Tax (TDS)
Chennai.

KRISHNAN RAMASAMY J.

rst

WP No. 16558 of 2025
AND
WMP NO. 18719 OF 2025,
WP NO. 18166 OF 2025,
WMP NO. 20348 OF 2025

18-06-2025