IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.09.2025

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P. No. 16811 of 2025
and
W.M.P. No. 19058 of 2025

Tvl. Thanishka Traders
Represented by its Proprietor,
P.B. Vimalesh ...Petitioner

Versus

The Assistant Commissioner (CT) (FAC),
Cholavaram Assessment Circle,
Room No.109, 1st Floor,
Integrated Commercial Taxes Building,
Wall Tax Road, Chennai – 600 003. ...Respondent

Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari, to call for the from the file of the Respondent herein in TIN/33611704822/2016-17 dated 08.08.2022 and quash the same.

For Petitioner : Mr. B. Syed Abdul Wakeel

For Respondent : Mrs. K. Vasanthamala,
Government Advocate

O R D E R

In this Writ Petition, the Petitioner has challenged the impugned order dated 08.08.2022 passed by the Respondent for the Assessment Year 2016-2017 under the provisions of TNVAT Act, 2006.

2. The specific case of the Petitioner is that for the same period another order was passed earlier on 01.01.2022 which came to be challenged by the Petitioner in W.P. No. 4545 of 2023. Against which, the Petitioner had filed an application under Section 84 of the TNVAT Act, 2006 for rectification of the aforesaid order on 15.02.2023. Since no orders were passed, the Petitioner was constrained to approach this Court in W.P. No. 4545 of 2023 for a composite relief, as detailed below: -

> *"Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records leading to the issuance of bank attachment notice bearing reference Rc.197/2022/A3 dated 14.10.2022 issued by the first respondent and further direct the first respondent herein to consider the rectification application dated 26.10.2022 and 05.12.2022 under Section 84 of the TNVAT Act for the year 2016-17 and dispose of the same in accordance with law."*

3. It is submitted that by an order dated 15.02.2023 the writ petition was disposed by directing the Respondent to pass appropriate orders on the

application filed by the Petitioner for rectification of the assessment order dated 01.02.2022. Pursuant to which, an order also came to be passed on 03.04.2023 and as a consequence, the recovery proceedings including attachment of the bank account was also withdrawn by the Respondent vide order dated 06.04.2023.

4. It is submitted that the impugned order dated 08.08.2022 was neither served on the Petitioner earlier nor the notices that preceded the impugned order will be served on the Petitioner. It is further submitted that the Petitioner had also replied to the notice that preceded the impugned order. However, the Petitioner was unaware of the fact that the impugned order had been passed on 08.08.2022.

5. It is submitted that only after recovery proceedings were initiated, the Petitioner approached the Respondent and secured a copy of the order and thus, approached this Court by way of writ petition.

6. Learned Government Advocate for the Respondent on the other hand would submit that all though two orders have passed, both pertain to

different issues and that the Petitioner had also participated in the proceedings that preceded the impugned order. Therefore, it is inconceivable for the Petitioner to alleged that the Petitioner has not been served with the impugned order dated 08.08.2022. It is therefore submitted that the petition is liable to be dismissed.

7. Have considered the submissions made by the learned counsel for the Petitioner and the Learned Government Advocate for the Respondent.

8. Reading of the impugned order seems to indicate that the Petitioner has neither filed any objections with proof of documents nor paid the tax for the notices issued prior to the impugned order, this stands recorded in the order itself. In this background that the demand has been confirmed against the Petitioner.

9. Since there is an element of doubt as to whether the order was indeed served on the Petitioner or not earlier, I am inclined to dispose this Writ Petition by giving liberty to the Petitioner to file a statutory appeal before the appellate authority under Section 51 of the TNVAT Act, 2006

within a period of 30 days from the date of receipt of copy of this order.

10. However, the Petitioner shall deposit 25% of the disputed tax immediately within a period of 30 days from the date of receipt of copy of this order. Thereafter, the Petitioner may file appropriate application for staying the recovery of further amounts. If such appeal is filed together with pre-deposit and the stay application and thereafter, the appeal shall be disposed on merits and in accordance with law. For the purpose of payment of 25% as ordered above, amount of recovery if any made shall be adjusted.

11. This Writ Petition is disposed of with the above observations. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

18.09.2025

Index : Yes/No
Neutral Citation :Yes/No
AT

C.SARAVANAN, J.

AT

To
The Assistant Commissioner (CT) (FAC),
Cholavaram Assessment Circle,
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