IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :05.06.2025

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The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.19863 of 2025
and
W.M.P.Nos.22396 & 22397 of 2025

TVL.DRC-MAARK,
GSTIN:33AAKFD8338G1ZD,
Represented by its Partner K.P.Duraisamy,
P.Kamalam Complex, II Floor,
247, E.V.N.Road, Erode-638 011. ...Petitioner

Vs.

The Assistant Commissioner (ST)(FAC),
Mettur Road Assessement Circle,
No.161, Meenakshi Sundharanar Salai,
Commercial Taxes Building, First Floor,
Erode-638 001. ...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records pertaining to the impugned order in Form GST DRC 07 bearing reference no.ZD3308241457852/2019-20 dated 19.08.2024 issued by the Sole Respondent and quash the same.

For Petitioner : Mr.G.Derrick Sam

For Respondent : Ms.P.Selvi
Government Advocate (Taxes)

ORDER

Ms.P.Selvi, learned Government Advocate (Taxes), who takes notice on behalf of the respondent. With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

2. The challenge in this Writ Petition is to the order dated 19.08.2024 passed by the respondent for the AY 2019-20 and to quash the same.

3. The learned counsel for the petitioner would submit that the show casue notice was issued to the petitioner on 24.11.2023 followed by personal hearing notices dated 20.06.2024, 09.07.2024 and 02.08.2024, for which the petitioner submitted its reply on 26.06.2024 and 09.08.2024. But the respondent without considering the same in a proper perspective has passed the impugned order dated 19.08.2024 demanding tax along with interest and penalty for the Assessement Year 2019-2020 and the same was uploaded in GST portal. Since the same was uploaded in the GST portal without serving physical copy to the petitioner, the petitioner was unaware of the same. The petitioner came to know of the impugned order only during April 2025 after getting a call from the respondent,by which time, the time limit for preferring an Appeal also expired. He therefore prays to set aside the impugned order.

4. The learned Government Advocate (Taxes) for the respondent submitted that the show cause notice was issued on 24.11.2023 and the reply came to be filed on 26.06.2024 and 09.08.2024. In the meantime personal hearing notices were also sent to the petitioner on 20.06.2024, 09.07.2024 and 02.08.2024 and only after considering the replies filed by the petitioner as well as by affording an opportunity of personal hearing impugned order came to be passed on 19.08.2024 i.e., after a period of nine months from the date of show cause notice, after duly considering the reply filed by the petitioner. Therefore, he would submit that principles of natural justice has been duly complied with.

5. Heard both sides. Perused the records.

6. In the case on hand, impugned order came to be passed only after considering the reply filed by the petitioner and also providing an opportunity of personal hearing to the petitioner. If the petitioner is aggrieved by the assessement order, the remedy available to him is only to file an appeal before the appellate authority challenging the assessement order. Therefore, this Court is not inclined to entertain this Writ Petition.

7. At this juncture, the learned counsel for the petitioner would submit that liberty may be granted to the petitioner to file an appeal before the appellate authority and the appellate authority may be directed to take the appeal on file, in which case the petitioner is ready to deposit additional 10% deposit over and above the statutory deposit of 10%, for which the learned Government Advocate (Taxes) has stated no serious objection.

8. Considering the aforesaid facts and circumstances of the case and also considering the submissions made, this Court is inclined to dimiss this writ petition with liberty to the petitioner to file an appeal before the appellate authority. Accordingly, this Court passes the following order:

i) The petitioner is permitted to file an appeal before the appellate authority along with payment of 20% of disputed tax (10% statutory deposit + 10% additional deposit), as agreed by the petitioner within a period of four weeks from the date of receipt of a copy of this order.

ii) On such appeal being filed along with the aforesaid payment, the appellate authority is directed to take the appeal on file without insisting upon the period of limitation and dispose of the same as expeditiously as possible.

9. Accordingly, this writ petition is dismissed with the aforesaid directions. Consequently, connected Miscellaneous Petitions are closed.

05.06.2025

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Index : yes/no
Neutral Citation : yes/no

Krishnan Ramasamy,J.,

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To

The Assistant Commissioner (ST)(FAC),
Mettur Road Assessement Circle,
No.161, Meenakshi Sundharanar Salai,
Commercial Taxes Building, First Floor,
Erode-638 001.

W.P.No.19863 of 2025

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