IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-06-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 20164 of 2025
AND
WMP NO. 22738 OF 2025,WMP NO. 22737 OF 2025

M/s.CEEDEEYES DESIGN MIX CONCRETE, Rep
by its Managing Partner,
Mr.Shanmugasundaram Noble Ramasamy -
Kannan Theleepan
No.1/119, Dilli Paalaachi Amman Koil Street,
Agaram Main Road, Kovilanchery, Chennai 600 126.

Petitioner(s)

Vs

The Assistant Commissioner (ST) (FAC),
Selaiyur:Tambaram:Chengalpattu, Nandanam,
Fanpet, Chennai 600 015.

Respondent(s)

PRAYER:-Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records relating to the impugned order in Reference No. ZD330424166197C/2018-19 dated 22.04.2024 passed by the Respondent and the consequential rejection order bearing Reference No ZD3303250260604/2018-19 dated 05.03.2025 passed by the Respondent, and to quash the same as arbitrary and illegal.

For Petitioner(s): Ms.Vijayalakshmi .V

For Respondent(s): Mr.V.Prasanth Kiran, Government Advocate (t)

ORDER

This writ petition has been filed by the petitioner challenging the impugned assessment order dated 22.04.2024 and the impugned rejection order dated 05.03.2025, passed by the respondent for the Assessment Year 2018-2019 and to quash the same.

2.Mr.V.Prasanth Kiran, learned Government Advocate (Taxes), takes notice on behalf of the respondent.

3.By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

4.Learned counsel appearing for the petitioner would submit that, the respondent issued show cause notice in DRC-01 on 26.12.2023 with regard to the discrepancies under Section 61 of the Tamil Nadu Goods and Services Tax Act, 2017 and proposed to levy tax, interest and penalty. Further, the respondent also issued reminder dated 11.04.2024 in this regard. However, though all the necessary documents were available, the petitioner could not file their reply since the partner of the Company who is handling all these statutory compliance was unwell. Consequently, the impugned assessment order dated 22.04.2024 was came to be passed. Therefore, the petitioner filed the rectification application along with relevant documents but the respondent rejected the application for rectification on 05.03.2025 without providing any opportunity. He would further submit that the petitioner is ready and willing to pay 25% of the disputed tax demand in respect of the impugned assessment period and prayed to set aside the impugned order directing the respondent to permit the petitioner to file their reply and provide an opportunity of personal hearing so that the petitioner would be able to substantiate their case.

5.Learned Government Advocate appearing for the respondent would submit that as per the voluntary submissions made by the learned counsel for the petitioner, subject to the deposit of 25% of the disputed tax demand by the petitioner in respect of the impugned assessment period, if the Court feels it appropriate and it is a fit case for re-consideration, this Court may consider and pass orders.

6.Heard the learned counsel appearing for the petitioner as well as the learned Government Advocate appearing for the repondent and perused the materials available on record.

7.Considering the above submissions made by the learned counsel on either side and upon perusal of the materials, it is evident that the impugned show cause notice was issued on 26.12.2023 proposing to levy tax, interest and penalty and the reminder dated 11.04.2024 was also issued in this regard, However, since the petitioner failed to file their reply, the impugned assessment order dated 22.04.2024 was passed by the respondent. According to the petitioner, though the documents were readily available, the reply was not filed since the partner of the Company who is handling the GST compliance was unwell. Despite the fact that the petitioner due to non-filing of the reply, on its own act has invited the *ex parte* impugned order, considering the plea of the petitioner and in the interest of justice, this Court is inclined set aside the impugned orders and remand the matter for fresh consideration in order to provide one more opportunity to the petitioner to put forth their case before the respondent. Accordingly, this Court passes the following orders:-

(i) The orders impugned herein dated 22.04.2024 and 05.03.2025 are set aside on condition that the petitioner deposits 25% of the disputed tax amount in respect of the impugned assessment period, as agreed by the petitioner, within a period of four 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 two weeks thereafter.

(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.

8.With the above directions, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

06-06-2025

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

To

The Assistant Commissioner,
Selaiyur-Tambaram-Chengalpattu,
Nandanam, Fanpet, Chennai 600 015.

KRISHNAN RAMASAMY J.

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