# IN THE HIGH COURT OF JUDICATURE AT MADRAS

**Dated : 21.01.2025**

**Coram:**
**THE HONOURABLE MR.JUSTICE C.SARAVANAN**

**W.P.No.21470 of 2022**
**and W.M.P.Nos.20478 & 20479 of 2022**

M.K.Sasikumar
...Petitioner

Versus

The Assistant Commissioner (State Taxes)
North – II, Assessment Circle,
Tirupur, Tirupur District.
...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari to call for the records of the impugned proceedings of the respondent dated 18.12.2018 made in TIN: 33752310025/2013-14 and quash the same.

| | | |
|---|---|---|
| For Petitioner | : | No Appearance |
| For Respondent | : | Ms.Amirta Poonkodi Dinakaran, Government Advocate |

## ORDER

This Writ Petition has been filed by the Petitioner praying to quash the **Assessment Order dated 18.12.2018** in TIN: 33752310025/2013-14 issued by the Respondent (hereinafter referred to as the 'impugned order').

2. The impugned order dated 18.12.2018 issued by the Respondent has been challenged primarily on the ground that the Petitioner has not been served with the impugned order. That apart, it is assailed on the ground that the impugned order suffers from violation of Principles of Natural Justice since prior to the issuance of impugned order, the Petitioner was not afforded with an opportunity of personal hearing. Therefore, the aggrieved Petitioner has approached this Court.

3. There is no representation on behalf of the Petitioner.

4. The learned Government Advocate for the Respondent drew the attention of this Court to Paragraph No.4 of the Counter Affidavit, wherein, it has been stated as follows:

> *"Based on verification of the data available with the department, it was ascertained that the Petitioner had reported lesser sales and purchases with an intention to evade payment of tax. Hence, the order was passed levying a tax due of Rs.4,49,640/- and penalty of Rs.2,75,626/- under Section 27(3) and 27(4).*
>
> *In view of such circumstance, the Petitioner had filed an RTI Application on 03.06.2022 for want of arrear details along with a certificate of pending dues. On receipt of the RTI Application, the Petitioner was served with certified copy of the Assessment Orders for the years 2011-12, 2013-14, 2014-15, 2015-16 and 2016-17 on 14.06.2022."*

4.1. Further, the learned Government Advocate for the Respondent submitted that the impugned order dated 18.12.2018 was served to the Petitioner on **24.12.2018** itself, whereas, this writ petition was filed only on **08.08.2022** i.e., after the expiry of the period of limitation. Therefore, it is submitted by the learned Government Advocate that as per the dictum laid down by the Hon'ble Supreme Court in ***Assistant Commissioner (CT), LTU, Kakinada & Ors. Vs. Glaxo Smith Kline Consumer Health Care Limited*** *(2020) 36 GSTL 305 (SC)*, this writ petition is not maintainable.

4.2. It is submitted by the learned Government Advocate that in the aforesaid decision, the Hon'ble Supreme Court based on the facts therein, has held that if the petitioner choses to approach the High Court after the expiry of maximum limitation period of 60 days from the date of the assessment proceedings or service of assessment proceedings prescribed under Section 31 of the Andhra Pradesh Value Added Tax Act, 2005, the High Court cannot disregard the statutory period for redressal of the grievance and entertain the writ petition of such a party as a matter of course. Therefore, it is submitted that this writ petition is liable to be dismissed.

5. Heard the learned Government Advocate for the Respondent and perused the materials available on record.

6. As far as this case is concerned, prior to the issuance of the impugned order, no notice was served on the Petitioner. Thus, the Petitioner was denied with an opportunity of personal hearing.

7. Considering the above facts and circumstances, the impugned order dated 18.12.2018 issued by the Respondent is hereby quashed and the same shall be treated as an Addendum to the Notice which precedes the Assessment Order subject to the condition that the Petitioner shall deposit 25% of the disputed tax, within a period of 30 days from the date of receipt of a copy of this order.

8. Thereafter, the Petitioner shall file his Reply to the aforesaid Notice i.e., the impugned order, within a period of 30 days from the date of receipt of a copy of this order. On filing of such Reply by the Petitioner, the Respondent shall consider the same and pass appropriate orders, within a

period of three months, after affording an opportunity of personal hearing to the Petitioner.

9. Since the dispute pertains to the Assessment Year 2013-2014, the aforesaid exercises shall be completed within a period of six months from the date of receipt of a copy of this order.

10. If the Petitioner fails to comply with the above direction within the stipulated time as mentioned above, the impugned order dated 18.12.2018 shall stand restored.

11. With the above directions, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

**21.01.2025**

mrr

Index : Yes/No

Speaking Order (or) Non-Speaking Order

To

The Assistant Commissioner (State Taxes)
North – II, Assessment Circle,
Tirupur, Tirupur District.

**C.SARAVANAN, J.**

mrr

W.P.No.21470 of 2022

21.01.2025