IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-06-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 21299 of 2025
AND
WMP NO. 24037 OF 2025,WMP NO. 24034 OF 2025

Tvl.Sri Ram Traders,
Rep by Its Proprietor,
No 1/522 F.No 145,Hitech City,
Ramapuram Kunthera Palli Village
Krishnagiri – 635 115.

Petitioner(s)

Vs

Assistant Commissioner,
Krishnagiri -I, Hosur.

Respondent(s)

PRAYER:-Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, calling for the entire records relating to the order in Reference No. ZD330225121397N dated 13.02.2025 passed by the respondent along with annexure and quash the same.

For Petitioner(s): Ms.R.Sri Visvapriya

For Respondent(s): Mr.C.Harsha Raj
Spl. Govt. Pleader (taxes)

ORDER

This writ petition has been filed by the petitioner challenging the impugned assessment order dated 13.02.2025, relating to the Financial Year 2020-2021, passed by the respondent.

2.Mr.C.Harsha Raj, learned Special Government Pleader (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 for the petitioner would submit that the respondent issued show cause notice dated 14.09.2023, alleging there was a difference in tax declared and proposals was made to recover the tax along with interest and penalty. The petitioner filed a reply dated 16.11.2023 to the show cause notice dated 14.09.2023, stating that the difference was due to a data entry mistake in the GST portal. However, the respondent without considering the aforesaid reply dated 16.11.2023, had issued another show cause notice dated 25.11.2024 for the very same year raising some additional issues. The petitioner upon receiving the second show cause notice dated 25.11.2024, handed over the same along with relevant documents to the Chartered Accountant for filing reply. However, he failed to file a reply. The petitioner was under the impression that the reply had been submitted by the Chartered Accountant. At this juncture, since no reply was filed, the respondent proceeded to pass the impugned assessment order dated 13.02.2025.

5.He would further submit that the petitioner is ready and willing to pay 10% 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.

6.Learned Special Government Pleader appearing for the respondent would submit that since the petitioner failed to file their reply, an *ex parte* assessment order has been passed by the respondent. However, he would further submit that as per the voluntary submissions made by the learned counsel for the petitioner, subject to the deposit of 10% 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.

7.Heard the learned counsel appearing for the petitioner as well as the learned Special Government Pleader appearing for the repondent and perused the materials available on record.

8.Considering the above submissions made by the learned counsel on either side and upon perusal of the materials, it is evident that since the petitioner failed to file their reply to the show cause notice dated 25.11.2024, the impugned assessment order dated 13.02.2025 was passed by the respondent. According to the petitioner, though the documents were handed over to the Chartered Accountant, he failed to file a reply. 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 order 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 order impugned herein is set aside and the matter is remanded back to the respondent for fresh consideration, on condition that the petitioner deposits 10% 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.

(iv) Upon production of proof with regard to the payment of 25% of the disputed tax made by the petitioner, the respondent-Department is directed to issue appropriate direction on the petitioner's banker towards de-freezure of the petitioner's bank account forthwith.

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

16-06-2025

rst

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

To

Assistant Commissioner,
Krishnagiri -I, Hosur.

KRISHNAN RAMASAMY J.

rst

WP No. 21299 of 2025

AND

WMP NO. 24037 OF 2025,

WMP NO. 24034 OF 2025

16.06.2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-06-2025

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For espondent(s): Mr.C.Harsha Raj
Spl. Govt. Pleader (taxes)

ORDER

This matter has been listed under the caption 'For Being Mentioned' at the instance of the learned counsel for the petitioner.

2. The learned counsel for the petitioner would submit that in the 2nd line of paragraph 8 (iv)the order dated 16.06.2025 passed by this Court in the aforesaid Writ Petition , inadvertently, the percentage of the disputed tax was wrongly mentioned as ***25%*** instead of ***10%*** **.**

3. Registry is directed to carry out the aforesaid corrections and issue fresh order copy to the parties concerned.

30-06-2025

arr

Note: Issue order copy on 02.07.2025

To

Assistant Commissioner,
Krishnagiri -I, Hosur.

KRISHNAN RAMASAMY J.

arr

WP No. 21299 of 2025

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