IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.06.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.21387 of 2025
& W.M.P.Nos.24135 & 24137 of 2025

M/s Meena Jewelleryrep. by its proprietor
A.Chandrasekaran, GSTIN
33AACHA6046E1ZV, 872/873, Trichy Road,
Ramanathapuram, Coimbatore-641 045

... Petitioner

Vs.

The State Tax OfficerTrichy Road Circle,
Commercial Buildings, Dr.Balasundaram Road,
Coimbatore-641 018

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, call for the records pertaining to the impugned order in GST DRC 07 bearing reference number ZD3308242494473/ 2019-20 dated 28.8.2024 issued by the sole Respondent and quash the same

For Petitioner : Mr.G.Derrick Sam

For Respondent : Mr.T.N.C.Kaushik, AGP

ORDER

This writ petition has been filed challenging the impugned order dated 28.08.2024 passed by the respondent.

2. Mr.T.N.C.Kaushik, learned Additional Government Pleader, takes notice on behalf of the respondent. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that in this case, after the receipt of show cause notice dated 27.05.2024, a detailed reply was filed by the petitioner on 28.05.2024. Subsequently, an opportunity of personal hearing was also provided by the respondent vide notice dated 21.08.2024, however, being unaware of the said notice, the petitioner had failed to appear before the respondent. Under these circumstances, the impugned order came to be passed on 28.08.2024 without providing any further opportunity of personal hearing, which is contrary to Section 75(4) of the GST Act. Hence, this writ petition.

4. On the other hand, the learned Additional Government Pleader appearing for the respondent would submit that in this case, though an opportunity of personal hearing was provided, the petitioner had failed to avail the same. Hence, the respondent had proceeded to pass the impugned order dated 28.08.2024 and the same does not require any interference of this Court. Therefore, he prays for dismissal of this petition.

5. In reply, the learned counsel for the petitioner would submit that the petitioner is intend to file an appeal against the said assessment order. Therefore, though he had sought for larger relief in this petition, he had restricted his relief to the extent to request this Court to grant liberty to the petitioner to file an appeal.

6. Further, he would submit that he is willing to pay 15% of the disputed tax amount, i.e., 10% towards statutory pre-deposit for filing the appeal along with additional pre-deposit of 5%, to the respondent. Hence, he requests this Court to pass appropriate orders.

7. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent and also perused the materials available on record.

8. In the case on hand, after some arguments, it was submitted by the learned counsel for the petitioner that now the petitioner is willing to file an appeal against the impugned assessment order dated 28.08.2024 passed by the respondent and he has restricted his relief and requested this Court to grant liberty to the petitioner to file an appeal against the impugned assessment order since it will be sufficient to meet out the case of the petitioner.

9. Further, it was submitted that the petitioner is willing to pay 15% of the disputed tax amount to the respondent. Therefore, though this petition has been filed challenging the impugned order dated 28.08.2024, considering the submissions made by the petitioner, this Court is inclined to dismiss the present petition by granting liberty to the petitioner to file an appeal against the impugned assessment order.

10. Accordingly, this writ petition is dismissed. No costs. Consequently, the connected miscellaneous petitions are also closed.

11. While dismissing this petition, this Court grants liberty to the petitioner to file an appeal before the concerned Appellate Authority, within a period of 30 days from the date of receipt of copy of this order, subject to the payment of 15% of the disputed tax amount to the respondent as agreed by the petitioner (10% of disputed tax amount towards statutory pre-deposit for filing the appeal along with additional 5% of disputed tax amount). In such case, the Appellate Authority shall consider the said appeal filed by the petitioner on its own merits and in accordance with law, by providing sufficient opportunity to the petitioner, without pressing for limitation.

18.06.2025

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

KRISHNAN RAMASAMY.J.,

nsa

To

The State Tax OfficerTrichy Road Circle, Commercial Buildings, Dr.Balasundaram Road, Coimbatore-641 018

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