IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2025

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The HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

Writ Petition No.22314 of 2025 and
WMP.Nos.25120 & 25121 of 2025

Ero Saraal Leather,
Rep by its Proprietor Pattu,
393/3, Aiswaryam Appartment,
Rani Street, Sanjay Nagar,
Erode – 638 011.

...Petitioner

Vs.

1. The Assistant Commissioner (ST)
Thindal Assessment Circle,
Erode.

2. The State Tax Officer,
Thindal Assessment Circle,
Erode.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari calling for the records pertaining to Impugned Demand Order dated 16.10.2023 made in GSTIN 33CMKPP2841J1ZU under Section 74 of the CGST/TNSGT Act, 2017 for the Tax period 2021-

2022 on the file of the 1st Respondent and to quash the same.

For Petitioner	:	Mr.R.Nandhakumar
For Respondents	:	Mr.T.N.C.Kausik, Additional Government Pleader (T)

O R D E R

Mr.T.N.C.Kausik, learned Additional Government Pleader (Taxes), takes notice on behalf of the respondents. 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 16.1.223 passed by the 1st respondent for the AY 2021-22 and to quash the same.

3. The learned counsel for the petitioner would submit that the first respondent has issued a show cause notice on 10.04.2023, followed by reminder dated 26.06.2023 to the petitioner by uploading the same in the GST portal. Therefore, the petitioner was not aware of the show cause notice and hence failed to file reply to the same in time. After coming to know about the show cause notice,the petitioner filed its reply on 27.07.2023.

Thereafter, without providing an opportunity of personal hearing, the respondent confirmed the proposals contained in the show cause notice and passed the present impugned order. Therefore, the learned counsel would submit that the impugned order suffers from violation of principles of natural justice and is liable to be aside, as the petitioner has not been heard before passing the impugned order.

3.1. It is also submitted by the learned counsel for the petitioner that the proprietrix of the petitioner is aged about 70 years and was hospitalized during the month of September 2023. Therefore, she has no occasion to view the GST portal. The petitioner came to know of the impugned order belatedly. That apart, after submitting the reply the petitioner was under the bonafide impression that the Respondent Department would have considered the Petitioner's reply and drop the proceedings against it or otherwise would provide opportunity of personal hearing so that the petitioner can substantiate its case with relevant materials. Further, he would submit that that the proprietrix of the petitioner firm is not able to carry on the business due to her age and ill health and considering the same one more opportunity may be provided to substantiate its case.

4. Per contra, the learned Additional Government Pleader (Taxes) for the respondents submitted that the show cause notice was issued to the petitioner on 10.04.2023. Since the petitioner failed to submit its reply reminder notices dated 26.06.2023 and 26.08.2023 were sent to the petitioner, by which opportunities of personal hearing has been provided to it. Despite the same, the petitioner failed to appear before the authority concerned and sent its reply on 27.07.2023. Since the reply filed the petitioner was not acceptable, assessment order came to be passed only on 16.10.2023. Therefore, he would submit that principles of natural justice has been duly complied with before passing the assessment order. Further, he would submit that if the petitioner is aggrieved by the assessment order, he can very file an appeal before the appellate authority. But, without doing so, the petitioner filed this writ petition challenging the assessment order after one and half years. He therefore seeks for the dismissal of this writ petition.

5. Heard both sides. Perused the records.

6. I find force in the submissions made by the learned Additional Government Pleader (Taxes) for the respondents for the reason that though the impugned order passed on 16.10.2023, the petitioner approached this Court belatedly i.e, after one and half years. If the petitioner is so aggrieved, it ought to have filed an appeal before the appellate authority challenging the impugned order. But without doing so, the petitioner has filed this writ petition belatedly. The contention of the learned counsel for the petitioner that the petitioner is aged 70 years and is unwell and therefore is not able to carry on business is not acceptable. Till date, the petitioner is carrying on the business and therefore the petitioner can very well adjudicate the issues raised in this writ petition before the appellate authority.

7. In such view of the matter, this Court is not inclined to entertain this writ petition as it sans merit.

8. Accordingly, this writ petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

23.06.2025

Index : Yes / No
Neutral Citation : Yes / No
Speaking Order : Yes / No
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To

1. The Assistant Commissioner (ST)
Thindal Assessment Circle,
Erode.

2. The State Tax Officer,
Thindal Assessment Circle,
Erode.

KRISHNAN RAMASAMY, J.

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