IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2025

CORAM

The HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

Writ Petition No.22308 of 2025
and
WMP.Nos.25110 & 25112 of 2025

M/s.K.A.M.Mines and Minerals
Represented by its Proprietor
Mr.A.Muthukumar
No.1/74, Chettiyakadu,
Thakattoor, Vedaranyam-614 714. ...Petitioner

Vs.

The State Tax Officer,
Thiruthuraipoondi Assessment Circle,
Thiruthuraipoondi-614713.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for the impugned proceedings passed by the respondent in TIN :33493882441/2014-15 dated 10.12.2024 and quash the impugned proceedings as passed contrary to the provisions of TNVAT Act, 2006 and also contrary to the principles of natural justice.

For Petitioner : Mr.P.Rajkumar

For Respondent : Mr.V.Prashanth Kiran
Government Advocate (Taxes)

O R D E R

Mr.V.Prashanth Kiran, learned Government Advocate (Taxes), takes notice on behalf of the respondent. 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 impugned assessment dated 10.12.2024 passed by the respondent and to quash the same.

3. The learned counsel for the petitioner would submit that the respondent has issued a notice on 01.12.2017, for which the petitioner submitted its reply on 17.02.2017 stating that the petitioner is not liable to pay tax under Section 4 of the TNVAT Act, 2006. Thereafter, the respondent issued notice on eight occassions. Since the petitioner's consultant failed to file reply to the aforesaid notices, the respondent has confirmed the proposals contained in the show cause notice and passed the present impugned order. He therefore prays this Court to grant one more opportunity to the petitioner to substantiate its case.

3.1. It is also submitted by the learned counsel for the petitioner that the petitioner is ready and willing to deposit Rs.5,00,000/-, in the event, this Court is inclined to set aside the impugned order and remand the matter back to the Authority for fresh consideration.

4. Per contra,the learned Government Advocate (Taxes) appearing for the respondent would submit that since the reply filed by the petitioner is not acceptable, the respondent isssued notice on eight occassions. Since the petitioner failed to submit its reply,order impugned herein came to be passed. Further, he would submit that whether the petitioner is liable to pay VAT or not is a factual issue and the same can be decided by filing the Appeal. Therefore, he prays to set aside this Writ Petition.

5. Heard both sides. Perused the records.

6**.** It is no doubt true that the issue whether the petitioner is liable to pay VAT or not is a factual issue and not the legal issue and the same can be decided at the stage of appeal. But, the learned counsel for the petitioner submitted that the petitioner's consultant failed to file reply to the notices and therefore impugned order came to be passed and therefore he requested for one more opportunity to substantiate its case.

7. Considering the same and also in order to provide one more opportunity to the petitioner to substantiate its case, this Court is inclined to set-aside the impugned orders with terms, by issuing the following directions:-

i) The impugned orders passed by the respondent dated 10.12.2024 is set aside.

ii) Consequently, the matter is remanded to the respondent for fresh consideration.

iii) The petitioner is granted liberty to deposit a sum of Rs.5,00,000/-, which the petitioner themselves had voluntarily came forward to make such payment, within a period of three weeks from the date of receipt of a copy of this order.

iv) Thereafter, the petitioner is directed to file a reply along with supportive documents within a period of two weeks.

v) Thereupon, the respondent is directed to consider the reply and shall issue a clear 14 days notice affording an opportunity of personal hearing to the petitioner and shall decide the matter in accordance with law.

8. With the above observations & directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

23.06.2025

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

KRISHNAN RAMASAMY, J.

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To

The State Tax Officer,
Thiruthuraipoondi Assessment Circle,
Thiruthuraipoondi-614713.

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