IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-07-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 26700 of 2025
AND WMP NO. 30028 OF 2025,WMP NO. 30027 OF 2025

Tvl.R.Mohanraj and Co.
9/4, Muthuram Arcade,
Opp to KPN Travels,
Erode-638 011,
Rep by its Partner R.Mohanraj.

Petitioner(s)

Vs

1. The Assistant Commissioner of (ST)(FAC),
Mettur Road Circle,
Erode -638 001,Tamil Nadu.

2.The Appellate Deputy Commissioner of State Tax,
Erode-638 001,
Tamil Nadu.

Respondent(s)

PRAYER:-Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, to call for the records on the file of the First Respondent and quash the Impugned Order in original dated

31.12.2021 passed by the First Respondent for FY 2015-16 having Ref No.CST.No.995994/2015-2016 and the impugned order under section 51 of the Tamil Nadu Value Added Tax Act,2006 (Act) in TNVAT No.33603044349 and CST No.995994 in No. 694/2022/A dated 27.07.2022 passed by the Second respondent for the year 2015-16,

For Petitioner(s): Mr.N.V.Narayanan

For Respondent(s): Mr.T.N.C.Kaushik,
Additional Government Pleader (t)

ORDER

This writ petition has been filed by the petitioner challenging the impugned assessment order dated 31.12.2021, passed by the 1st respondent, relating to the Financial Year 2015-16 and the consequential impugned appeal rejection order dated 27.07.2022, passed by the 2nd respondent.

2.Mr.T.N.C.Kaushik, learned Additional Government Pleader (Taxes), takes notice on behalf of the respondents.

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 earlier the petitioner filed writ petition in W.P.No.29751 of 2022 challenging the appeal rejection order dated 27.07.2022 alone. In order to challenge the assessment order dated 31.12.2021 along with the appeal rejection order, the petitioner withdrawn the said writ petition with liberty to challenge the assessment order dated 31.12.2021 and subsequently, filed the present writ petition.

5.Learned counsel for the petitioner would further submit that the impugned assessment order dated 31.12.2021 is passed in *ex parte.* The petitioner was unaware of the assessment proceedings being initiated against them. The Auditor engaged by the petitioner also failed to follow up the proceedings and file reply to the show cause notice. Consequently, the *ex parte* impugned assessment order dated 31.12.2021 came to be passed. Immediately after knowing about the impugned assessment order being passed against the petitioner, they filed an appeal beyond the limitation period and therefore, the appeal got rejected. He would also submit that the petitioner had deposited 25% of the disputed tax demand while filing appeal and he undertakes to deposit another 10% of the disputed tax demand, in respect to the impugned assessment period and prayed to set aside the impugned assessment order directing the 1st 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 Additional Governmment Pleader appearing for the respondents would fairly submit that initially the writ petition in W.P.No.29751 of 2022 was filed by the petitioner challenging the appeal rejection order dated 27.07.2022 and the same was withdrawn to challenge both the impugned assessment order dated 31.12.2021 along with the appeal rejection order. 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, over and above the 25% deposit already made by the petitioner, 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 for the petitioner as well as the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

8.Considering the submissions made by the learned counsel for the petitioner as well as the learned Additional Government Pleader appearing for the respondents, it is evident that the peittioner originally challenged the appeal rejection order in W.P.No.29751 of 2022 and later withdrawn the same in order to challenge both the assessment order dated 31.12.2021 along with appeal rejection order dated 27.07.2022 and filed the present writ petition.

9.Further, in the present case, admittedly the assessment order dated 31.12.2021 was passed in *ex parte*. According to the petitioner, the petitioner handedover the entire CST matters to the Auditor, who failed to follow up the impugned proceedings and to file reply to the show cause notice and therefore, the *ex parte* impugned assessment order came to be passed. Taking note of the both side submissions, this Court feels that since the impugned assessment order dated 31.12.2021 passed in *ex parte* and the reason for non-filing of the reply to the show cause notice appears to be genuine, this Court is inclined to set-aside the impugned orders, with terms by issuing the following directions:-

(i) The orders impugned herein are set aside and the matter is remanded back to the 1st respondent for fresh consideration on condition that the petitioner deposits 10% of the disputed tax amount in respect of the impugned assessment period over and above the 25% deposit already made, 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.

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

23-07-2025

rst

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

To

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Mettur Road Circle,
Erode -638 001,Tamil Nadu.

2.The Appellate Deputy Commissioner
of State Tax,
Erode-638 001, Tamil Nadu.

KRISHNAN RAMASAMY J.

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