IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2025

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The HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

Writ Petition No.27182 of 2022 and
WMP.Nos.26386 to 26388 of 2022

M/s.Gayathri Constructions,
Represented by its Partner,
Mr.N.Suganatham,
No.76, Poompuhar Nagar,
Goldwins, Kalapatti,
Coimbatore - 641 018.

...Petitioner

..Vs..

1. The Assistant Commissioner (ST)
Chennimalai Assessment Circle,
No.300, Bhavani Main road,
Perundurai-638 052.

2.The Assistant Commissioner (ST)
Perundurai Assessment Circle,
Perundurai.

3.The Assistant Commissioner (ST)
Peelamedu South Assessment Circle,
Coimbatore - 641 018.

4.The Manager
Indian Overseas Bank
11 BY 953, Cross Cut Road,
Gandhipuram,
Coimbatore - 641 012.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for the impugned proceedings of the first respondent in TIN No. 33202922640/ 2013- 2014 dated 29.6.2022 and the consequential impugned notice in Roc. 775/2022/A3 dated 12.9.2022 issued to the fourth respondent and quash both the proceedings as issued in violation of principles of natural and also contrary to the provisions of the TNVAT Act, 2006.

For Petitioner	:	Mr.P.Rajkumar
For Respondents	:	Mr.TNC.Kaushik, Additional Government Pleader (Taxes) For R1 to R3 R4 - No Appearance

ORDER

This Writ Petition has been filed challenging the proceedings of the first respondent in TIN No. 33202922640/ 2013- 2014 dated 29.6.2022 and the consequential impugned notice in Roc. 775/2022/A3 dated 12.9.2022 issued to the fourth respondent and quash both the proceedings.

2. The learned counsel appearing for the petitioner would submit that the petitioner is a civil contractor initially registered under the provisions of Tamil Nadu Value Added Tax, 2006 (in short 'TNVAT Act, 2006) and also under the Central Sales Tax Act, 1956 (in short 'CST Act' 1956) on the file of the 2nd respondent viz., the Assistant Commissioner (ST), Perundurai Assessment Circle, Perundurai in the year 2001. Thereafter, the petitioner shifted its business place to Coimbatore in the year 2012 and registered on the file of the 3rd respondent viz., The Assistant Commissioner (ST), Peelamedu South Assessment Circle, Coimbatore under the provisions of the TNVAT Act,2006 with effect from 10.09.2012. In this regard, the petitioner had filed a letter with the second respondent. Thereafter, the petitioner started filing their monthly returns with the third respondent. As the petitioner shifted to Coimbatore and obtained registration before the 3rd respondent, obviously the petitioner did not file any returns before the second respondent. Further, he would submit that the vendors have deducted the TDS for the Assessment Year 2013-2014 and remitted to the old TIN No. instead of new TIN No. Though the petitioner had brought to the attention of the 1st respondent that monthly returns for the assessment

year 2013-2014 were already filed before the 3rd respondent, the impugned order has been passed by the 1st respondent as if the works contract turnover for the year 2013-2014 has been suppressed by the petitioner. He therefore prays to set aside the impugned assessment order.

3. The learned Additional Government Pleader appearing for the respondents 1 to 3 submitted that the petitioner has obtained the new registration with the 3rd respondent without cancelling the old registration. That apart though they have not filed returns before the 2nd respondent 2% of TDS was deducted and credited to old TIN No. lying with the 2nd respondent. Further, he would submit that since no documents have been filed with regard to payment of tax and filing of returns and details of other deduction, impugned order came to be passed. He therefore prays for the dismissal of this writ petition.

4. In reply, the learned counsel for the petitioner would submit that the petitioner is now ready and willing to furnish all the required documents to substantiate its case and therefore one more opportunity may be granted

to them to prove its case.

5. Heard both sides. Perused the records.

6. In the present case, petitioner is a civil contractor initially registered under the provisions of TNVAT Act, 2006 and also 'CST Act' 1956 on the file of the 2nd respondent in the year 2001. Thereafter, the petitioner shifted its business place to Coimbatore in the year 2012 and registered on the file of the 3rd respondent with effect from 10.09.2012. Thereafter, the petitioner started filing their monthly returns with the third respondent. As the petitioner shifted to Coimbatore and obtained registration before the 3rd respondent, the petitioner did not file any returns before the second respondent. The Petitioner's vendors have deducted 2% of TDS for the Assessment Year 2013-2014 and remitted to old TIN No. which pertains to the 2nd respondent. Therefore, ultimately I do not find any revenue loss to the Respondents – Department. Admittedly, there is not dispute with regard to the filing of returns and payment of tax by the petitioner. This being the case, the burden lies on the petitioner to prove the

deduction made and remitted to old TIN No. That apart, the petitioner is now ready and willing to produce all the relevant documents before the 1st respondent to substantiate its case.

7.In such view of the matter, this Court is inclined to set aside the impugned order dated 29.06.2022 passed by the 1st respondent. Accordingly, this Court passes the following order:

> (i) The impugned order dated 29.06.2022 is set aside and the matter is remitted back to the 1st respondent for fresh consideration.
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> (ii) The petitioner shall file their reply/objection along with the required documents, within a period of three weeks thereafter.
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> (iii) On filing of such reply/objection by the petitioner, the respondent shall consider the same and issue a 7 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.

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

24.06.2025
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Index : Yes / No
Neutral Citation : Yes / No
Speaking Order : Yes / No
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KRISHNAN RAMASAMY, J.

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