IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.08.2025

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.29207 of 2025
& W.M.P.Nos.32763 & 32764 of 2025

M/s.Indian Stores,
Rep. by its Proprietor,
Mr.Bava Bahurdeen,
No.270, B&C, Trunk Road,
Poonamallee,
Tiruvallur District. ... Petitioner

Vs.

The State Tax Officer,
Poonamallee Assessment Circle,
Commercial Taxes Department,
No.4/109, Third Floor,
Bangalore-Chennai Highway,
Varadarajapuram, Nazaratpet,
Tiruvallur District. ... Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records pertaining to the impugned order dated 06.02.2025 vide Ref:ZD330225066144Q, passed by the respondent herein against the petitioner's firm vide GSTIN-33BUAPB0367G1Z9, for the Assessment Year 2020-2021 and quash the same.

For Petitioner	:	Mr.K.M.Malarmannan
For Respondent	:	Mrs.K.Vasanthamala, Government Advocate (T)

ORDER

This writ petition has been filed challenging the impugned order dated 06.02.2025 passed by the respondent.

2. Mrs.K.Vasanthamala, learned Government Advocate, 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. Learned counsel for the petitioner submitted that in this case, the petitioner was engaged in the retail business of groceries, fruits, vegetables and household items. This being the case, the respondent issued a show cause notice dated 25.11.2024, alleging excess ITC claim and non-reversal of exempt supplies. For the said show cause notice, the

petitioner has filed their reply on 24.12.2024. Though the petitioner had filed a detailed reply for the show cause notice dated 25.11.2024, without considering the same, the respondent issued an assessment order dated 06.02.2025. Challenging the said order, the petitioner has filed this writ petition.

4. He would further submit that the petitioner is not only selling groceries in his shop, but also selling fresh fruits and vegetables, which are predominantly exempt from taxation under the GST framework. Hence, he prays to set aside the assessment order.

5. On the other hand, the learned Government Advocate appearing for the respondent would submit that though the petitioner has filed their reply on 24.12.2024, they have not produced any supporting documents to substantiate their claim and the said reply was also not satisfactory. Furthermore, the petitioner has not appeared for personal hearing, which was afforded to them. Thus, she requests this Court to pass appropriate orders.

6. Heard the learned counsel for the petitioner and the learned Government Advocate for the first respondent and also perused the materials available on record.

7. In the case on hand, it appears that initially, the show cause notice dated 25.11.2024 was issued by the respondent, for which a reply was filed by the petitioner. Without considering the same, the respondent passed the assessment order dated 06.02.2025. On perusal of the records, it is evident that the petitioner has not filed the supporting documents along with the reply. Without the supporting document, the respondent are not in a position to arrive at a conclusion that whether the petitioner is selling fruits and vegetables in his shop. Further, the petitioner has not produced a records of purchases related to both exempt and taxable supplies for evidencing the nature of transactions and confirming the no common ITC is being claimed for non-business purposes or exempt supplies. Hence, this Court do not find any fault on the part of the respondent. However, in the interest of justice, this Court is inclined to

grant one more opportunity to the petitioner to putforth their contention before the authority by setting aside the impugned order. Accordingly, this Court passes the following order:-

(i) The impugned order dated 06.02.2025 is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay 25% of disputed tax amount to the respondent within a period of four weeks from the date of receipt of a copy of this order. The setting aside of the impugned order will take effect from the date of payment of the said amount.

(ii) The petitioner shall file their additional reply along with the required documents, if any, within a period of three weeks from the date of payment of amount as stated above.

(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.

With the aforesaid directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

07.08.2025

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

The State Tax Officer,
Poonamallee Assessment Circle,
Commercial Taxes Department,
No.4/109, Third Floor,
Bangalore-Chennai Highway,
Varadarajapuram, Nazaratpet,
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KRISHNAN RAMASAMY.J.,

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