IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2025

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The HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

**Writ Petition No.32889 of 2025**

M/s Deekshana Construction by its Proprietor
V Venkatesvar
138/8, Thottipalayam Bhavani Taluk,
Erode District.

...Petitioner

Vs.

1. The Deputy State Tax Officer,
Bhavani Circle, Bhavani,
Erode District.

2.The Deputy Commissioner (ST) (GST) (Appeal),
Erode and Salem
Integrated New Commercial Taxes Building,
Erode 638 002.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for the records of the 2nd respondent culminating in ROC.No. 2362/2024/A1 dated 09.07.2024 confirming the order of the 1st respondent dated 12.12.2023 in GSTIN/33AFKPV2948H1Z2 / 2018-19 and to quash them, consequently direct the respondents to remit back Rs.90,015/- (Ninety thousand and fifteen rupees) to the petitioner's account.

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| For Petitioner | : | Mr.Selvaraju D |
| For Respondents | : | Ms.P.Selvi,<br>Government Advocate (Taxes) |

**ORDER**

This Writ Petition has been filed challenging the order of the 1st respondent dated 12.12.2023 and to quash the same and consequently direct the respondents to remit back a sum of Rs.90,015/- (Ninety thousand and fifteen rupees) to the petitioner's account..

2. Ms.P.Selvi, learned Government Advocate (Taxes) takes notice on behalf of the Respondents. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that the 1st respondent issued a show cause notice to the petitioner on 28.12.2022, followed by reminder notice dated 08.03.2022 to the petitioner, for which the petitioner filed its reply on 11.03.2023 stating that the petitioner has already paid the late fee and the interest. But the 1st respondent without

considering the same has passed the assessment order dated 12.12.2022 confirming the proposal made in the show cause notice and the same was uploaded in the GST portal without serving physical copy to the petitioner. Therefore, the petitioner was not aware of the same. The petitioner came to know of the said order belatedly. Immediately, the petitioner filed an appeal before the 2nd respondent with a delay of 55 days and the same was dismissed vide order dated 06.06.2024. Being aggrieved over the same, the petitioner has filed this Writ Petition seeking for the aforesaid relief.

4. Further, he would submit that though the interest was paid and the reply was also filed by the petitioner informing the said fact, in the order dated 12.12.2023, it is stated by the 1st respondent that the petitioner has neither paid the interest due nor replied to the show cause notice and therefore the said order is passed without application of mind.

5. The learned Government Advocate (Taxes) appearing for the respondents would submit that at the time of passing the assessment order, no reply was filed by the petitioner and the petitioner has also filed the Appeal belatedly with a delay of 55 days and hence the same came to be

rejected. She therefore prays for a dismissal of this Writ Petition.

6. Heard both sides. Perused the records.

7. A perusal of the records would go to show that though the petitioner filed the reply to the show cause notice stating that interest has been paid by them, the 1st respondent without considering the same has passed the assessment order stating that no reply was filed and no interest was paid by the petitioner and therefore the same is passed without application of mind. The 1st respondent ought to have considered the reply filed by the petitioner and ascetain whether the petitioner has paid the interest or not. When the assessment order itself has been passed without considering the reply filed by the petitioner, the consequent order passed by the appellate authority has no legs to stand.

8. In such view of the matter, though the petitioner challenged the order passed by the appellate authority, in the interest of justice and in order to give opportunity to the petitioner to substantiate its case, is inclined to set

aside the assessment order dated 12.12.2023. Accordingly, this Cour passes the following order:

(i) The Assessment order passed by the 1st respondent dated 12.12.2023 is set aside and the matter is remitted back to the 1st respondent for reconsideration.

(ii) The 1st respondent is directed to consider the reply filed by the petitioner and pass orders on merits and in accordance with law, after providing an opportunity of personal hearing to the petitioner, as expeditiously as possible.

9. With the above observation and direction, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

**28.08.2025**

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

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To

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