IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.40949 of 2025
and
W.M.P.Nos.45901 and 45902 of 2025

Tvl.Lakshmi Saraswathi Trailers,
Rep by its Proprietor
N.Ponnusamy. ... Petitioner

Vs.

The Deputy State Tax Officer – 1 / The Deputy Commercial Tax Officer,
Namakkal Town Assessment Circle,
Namakkal District. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records in GSTIN No.33ARWPP1589N1ZR/2017-18 dated 02.11.2022 in Form GST ASMT – 15 and consequential order dated 09.11.2022 in Form GST DRC – 07 on the file of respondent and quash the same as illegal, error of law and error on the face of record and contrary to the provisions of GST Act, 2017 and direct the respondent to pass orders after providing an opportunity of personal hearing to the Petitioner.

For Petitioner : M/s.L.Sweety

For Respondent : Mr.T.N.C.Kaushik
Additional Government Pleader

ORDER

Mr.T.N.C.Kaushik, learned Additional Government Pleader takes notice for the Respondent.

2. In this Writ Petition, the Petitioner has challenged the order in Form GST ASMT – 15 dated 02.11.2022 and the order dated 09.11.2022 in Form GST DRC – 07. The first mentioned order has been passed under Section 63 of the respective GST enactments as the Petitioner has failed to file a reply.

3. It is noticed that the Petitioner's GST registration was earlier cancelled on 06.11.2019 under Section 29(2) of the TNGST Act, 2017 with effect from 19.01.2018 on account of the Petitioner's failure to file the return for a continuous period of six months. The impugned orders are an ex-parte orders, which ought to have been challenged by the Petitioner by filing an appeal in time. However, the petitioner has failed to challenge the same in appeal and has now approached this Court.

4. The learned counsel for the Petitioner submits that the Petitioner may be given one opportunity to file a reply to the Show Cause Notice dated 14.02.2022. The impugned orders dated 02.11.2022 and 09.11.2022 are the direct consequence of the Petitioner's failure to respond to the Show Cause Notice.

5. Under similar circumstances, Orders have been quashed and cases have

been remitted back to pass a fresh order on terms subject to such Assessee depositing 25% to 100% of the disputed tax depending upon the length of delay in approaching the Court. I do not find any reason to take a different view in this case.

6. Therefore, to balance the interest of both parties viz., the Assessee and the Revenue, the case is remitted back to the Respondent to pass a fresh order subject to the Petitioner depositing 100% of the disputed tax in cash from the Petitioner's Electronic Cash Register within a period of thirty (30) days from the date of receipt of a copy of this order.

7. Within such time, the Petitioner shall also file a reply to the Show Cause Notice in GST DRC-01 dated 14.02.2022 together with requisite documents to substantiate the case by treating the impugned Order dated 09.11.2022 as an addendum to the Show Cause Notice dated 14.02.2022.

8. In case the Petitioner complies with the above stipulations, the Respondent shall proceed to pass a final order on merits and in accordance with law as expeditiously as possible, preferably, within a period of three (3) months of such reply/pre-deposit. Subject to the Petitioner complying with the above stipulations, the attachment of the bank account of the Petitioner shall also stand automatically vacated.

9. It is made clear that bank attachment shall be lifted subject to the deposit of 100% of the disputed tax as ordered above and no other amount is in arrears barring the amount demanded under the impugned Order.

10. In case the Petitioner fails to comply with any of the stipulations, the Respondent is at liberty to proceed against the Petitioner to recover the tax in accordance with law as if this Writ Petition was dismissed *in limine* today.

11. Needless to state, before passing any such order, the Respondent shall give due notice to the Petitioner.

12. This Writ Petition stands disposed of with the above observations. No costs. Connected Writ Miscellaneous Petitions are closed.

03.11.2025

Neutral Citation : Yes / No

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To:

The Deputy State Tax Officer – 1 / The Deputy Commercial Tax Officer,
Namakkal Town Assessment Circle,
Namakkal District.

C.SARAVANAN, J.

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