BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.04.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

W.A.(MD)No.1626 of 2021 AND
C.M.P.(MD)Nos.7050 of 2021 & 1111 of 2024

Madhucon Projects Ltd.,
Rep. by GVLN Sastry, Manager(F&A),
KM 216 NH 45, Madurai Tuticorin Road,
Senthilkkari, Ettayapuram,
Tuticorin 628 902. ... Appellant / Petitioner

Vs.

State Tax Officer,
Ettayapuram,
Tuticorin District – 628 902. ... Respondent /Respondent

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 09.04.2021 passed in W.P.(MD)No.15159 of 2020 on the file of this Court and allow the present writ appeal.

For Appellant : Mr.Joseph Prabhakar

For Respondent : Mr.R.Suresh Kumar,
Additional Government Pleader.

* * *

JUDGMENT

(Order of the Court was delivered by G.R.SWAMINATHAN, J.)

Heard both sides.

2. Earlier, the writ petitioner filed W.P.(MD)Nos.11540 to 11543 of 2018 and they were allowed vide order dated 09.07.2018 on the ground that personal hearing was not afforded to the assessee. The matter was remitted to the file of the assessing authority. The assessing authority thereafter issued personal hearing notice dated 03.09.2020. The assessee appeared through his counsel through Whatsapp mode. The assessee also filed detailed written submissions.

3. The grievance of the assessee is that thereafter, the impugned order dated 09.09.2020 came to be passed without considering any of the contentions raised by them. Challenging the same, they filed W.P.(MD)No.15159 of 2020. The learned single Judge dismissed the writ petition vide order dated 09.04.2021 on the ground that the assessee can as well file an alternative appeal. Challenging the same, this writ appeal came to be filed.

4. Even though before raising the arguments, the learned counsel appearing for the appellant on instructions submitted that this Court may set aside the order impugned in the writ petition and remit to the file of the authority and that the appellant without prejudice to their contentions would pay 5% of disputed tax. The said undertaking is placed on record.

5. When a quasi judicial authority passes an order, it has to be a speaking order. The authority must address the various contentions raised by the assessee. In this case, the assessee has raised a host of contentions. Unfortunately, the order impugned in the writ petition does not advert to any of the contentions. On the other hand, the earlier demand has been mechanically reproduced. It clearly betrays non-application of mind. On this ground, the order impugned in the writ petition is quashed. The order of the learned single Judge dismissing the writ petition is set aside. The matter is remitted to the file of the respondent.

6. The appellant shall remit 5% of the disputed tax on or before 09.05.2025. The assessee will appear before the respondent with all necessary documents on 12.05.2025 at 11.00 a.m. The assessing authority will once again hear the appellant or his legal representative. The appellant is at liberty to file fresh written arguments. The assessing officer shall advert to all the contentions before passing fresh order. The benefit of this order will stand automatically vacated if the appellant fails to abide by the undertaking of remitting 5% of the disputed tax. This writ appeal stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

(G.R.SWAMINATHAN, J.) & (M.JOTHIRAMAN, J.)
01st April 2025

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
PMU

To:

The State Tax Officer,
Ettayapuram,
Tuticorin District – 628 902.

G.R.SWAMINATHAN,J.

AND

M.JOTHIRAMAN, J.

PMU

W.A.(MD)No.1626 of 2021

01.04.2025