BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.07.2025

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P(MD) No.18984 of 2025 and
W.M.P(MD) Nos.14542 and 14543 of 2025

Tvl.S Kannan Contractor,
represented by its Proprietor
Sappanipillai Kannan,
W2/B5/88, Sankiliapillai Street,
Jeyamangalam, Periyakulam,
Theni District – 625 603. ... Petitioner

Vs.

The Assistant Commissioner (ST),
Theni – 1 Circle,
Commercial Taxes Buildings,
Theni. ...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for records pertaining to the impugned order passed by the Respondent vide his order bearing Reference No.33AOHPK3743B1ZE/2019-20, Dated 13.08.2024 and quash the same as it is illegal, without jurisdiction and in gross violation of Principles of Natural Justice and further direct the Respondent to re-do the assessment afresh after providing an opportunity of personal hearing as per the provisions of the GST Act.

For Petitioner : Mr.A.Satheesh Murugan

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

ORDER

This Writ Petition is disposed of at the time of admission after hearing the learned counsel for the petitioner and the learned Additional Government Pleader appearing on behalf of the respondent.

2. The petitioner is before this Court against the impugned order, dated 13.08.2024, whereby the demand has been made for the tax period between 2019-20 pursuant to the notice in Form DRC 01 dated 23.05.2024. The impugned order has also preceded two personal hearing notices dated 22.07.2024 and 05.08.2024. However, the petitioner has neither replied to the show cause notice nor appeared for personal hearing on the date stipulated in the above mentioned notices, hence, he has suffered by an adverse order.

3. Considering the fact that the time for filing an appeal is already expired, the Court cannot permit the petitioner to file a statutory appeal in the light of the decisions made by the Hon'ble Supreme Court in ***Singh enterprises Vs CCE*** reported in ***(2008) 3 SCC 70*** and in the case of ***CCE and Customs Vs.Hongo India (P) Limited*** reported in ***(2009) 5 SCC 791***.

4. However, under similar circumstances, the Court has come to rescue the petitioner by quashing the impugned order, dated 13.08.2024 on term subject to the petitioner depositing 25% of the disputed tax. I find no reason to take a different view of this case.

5. Considering the above, the petitioner is directed to deposit 25% of the disputed tax in case within a period of 30 days from the date of receipt of copy of this order. The petitioner shall also file a reply to the notice in Form DRC 01 dated, 23.05.2024 within such period. In case the petitioner complies with the above stipulation, the respondent shall pass a fresh order on merits. In case the petitioner fails to comply with the stipulation above, the respondent is at liberty to proceed against the petitioner as if this Writ Petition was dismissed.

6. With the above directions and liberty, this Writ Petition stands disposed of. Consequently, connected Miscellaneous Petitions are closed. No costs.

14.07.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Indu

C.SARAVANAN, J.

Indu

The Assistant Commissioner (ST),
Theni-1 Circle,
Commercial Taxes Buildings,
Theni.

W.P(MD) No.18984 of 2025

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