BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.08.2025

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P(MD)No.22487 of 2025
and
W.M.P(MD)No.17591 of 2025

Tvl.Peter Arokeyathasan,
Contractor,
GSTIN 33FBHPP6038N1Z4
3/155, Keelavaragunaramapuram,
Nallamangalam,
Virudhunagar 626111. ... Petitioner

Vs.

The Assistant Commissioner (ST),
Rajapalayam 1 Assessment Circle,
Commercial Taxes Buildings,
Tenkasi Road,
Rajapalayam. ...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the respondent in GSTIN 33FBHPP6038N1Z4/2022-23 dated 08.10.2024 passed by the respondent under section 73 of TNGST Act 2017 and to quash the same as cryptic, barred by limitation, non-speaking, illegal, arbitrary, wholly without jurisdiction and direct the respondent to pass assessment order afresh by considering the reply dated 07.02.2024.

For Petitioner : Mr.N.Sudalai Muthu

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

ORDER

The petitioner is before this Court against the impugned order dated 08.10.2024, passed for the tax period 2022-2023.

2. The impugned order was preceded by a notice in Form AST 10 dated 07.12.2022, followed by a notice in DRC 01A dated 17.03.2023 and notice in DRC 01 dated 10.01.2024. The impugned order records that the petitioner had only filed a reply to the notice in DRC 01 on 27.03.2023.

3. The specific case of the petitioner is that the petitioner was also filed a reply to the notice in DRC 01A dated 17.03.2023 on 07.02.2024, which was acknowledged on 13.02.2024 on the web portal. However, the same has not been considered.

4. The learned Additional Government Pleader for the respondent submits that the petitioner having slept over the rights, cannot now agitate the issue in the light of the well settled principle of law as per the decision of the Hon'ble Supreme Court in the case of ***Assistant Commissioner (CT), LTU, Kakinada and others vs. Glaxo Smith Kline Consumer Health Care Limited,*** reported in ***2020 SCC Online SC 440.*** .

5. Having considered the submission made by the learned counsel for the petitioner, learned Additional Government Pleader for the respondent and having perused the acknowledgment of the reply dated 07.02.2024 on 13.02.2024 in the web portal, I am of the view that the petitioner's reply has not been considered while passing the impugned order.

6. The impugned order refers only to the reply to the notice in DRC 01A dated 17.03.203 vide reply dated 27.03.2023. That apart, it appears that the dispute arising only on account of the change in the rate of tax of 12% to 18% vide Notification No.3/2022- CT(R) dated 13.07.2022.

7. Be that as it may, the Court has come to the rescue of a persons like the petitioner by quashing the assessment order on terms subject to the payment of 25% of the disputed tax. I see no reason to take a different view in the facts and circumstances of the case.

8.Therefore, this Writ Petition is disposed of, by quashing the impugned order on terms, subject to the petitioner depositing 25% of the disputed tax, from the Electronic Credit Ledger, within a period of 30 days from the date of receipt of a copy of this order.

9.The petitioner shall file a reply to the show cause notice that preceded the impugned order within such time. The impugned order, which stands quashed, shall be treated as addendum to the show cause notice. The respondent shall endeavour to pass a fresh order on merits as expeditiously as possible after hearing the petitioner.

10.It is also made clear that in case the petitioner fails to comply with any of the conditions stipulated above, it will be deemed as if the Writ Petition was dismissed. In this case, it is open for the respondent to proceed to against the petitioner in accordance with the provisions of the respective GST enactments and the Rules made thereunder. No costs. Consequently, connected Miscellaneous Petition is closed.

19.08.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
sn

<u>To</u>

The Assistant Commissioner (ST),
Rajapalayam 1 Assessment Circle,
Commercial Taxes Buildings,
Tenkasi Road,
Rajapalayam.

C.SARAVANAN, J.

sn

W.P(MD)No.22487 of 2025

19.08.2025