BEFORE THE MADURAI BENGH OF MADRAS HIGH COURT

DATED: 15.12.2025

CORAM

THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P.(MD)No.35808 of 2025
and
W.M.P.(MD).Nos.28432 and 28434 of 2025

M/s. Syedsirajudeen,

Represented by its Proprietor,

Syed Sirajudeen ... Petitioner

Vs

The Deputy Commercial Tax Officer,
Tuticorin-II Assessment Circle,
No.6, R-North Cotton Road,
Thoothukudi,
Tamil Nadu-628 001. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the order passed by the respondent in Order No.ZD331223110858L, dated 15.12.2023 and quash the same as illegal and remand the matter for reconsideration.

For Petitioner : Mr.Selvakumar

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

ORDER

This Writ Petition has been filed seeking to quash the order passed by the respondent in Order No.ZD331223110858L, dated 15.12.2023, and to remand the matter for reconsideration.

2. Mr.R.Suresh Kumar, learned Additional Government Pleader takes notice for the respondent.

3. By consent of both parties, the writ petition is taken up for final disposal at the admission stage itself.

4. The learned counsel appearing for the petitioner would submit that the assessment order was initially passed on 15.12.2023. The respondent passed the impugned order by taking into consideration the returns filed for the previous month. He would further submit that the petitioner had filed the GSTR-3B returns belatedly, i.e., after the passing of the impugned order. He would submit that in terms of Section 62(2) of the TNGST Act, 2017, if an assessee fails to file the returns, the proper officer is empowered to pass a best judgment assessment order; however, such order shall be deemed to be withdrawn once the returns are filed

within the prescribed period. Thereafter, the assessment officer is required to proceed with a fresh assessment based on the returns filed by the petitioner.

5. The learned Additional Government Pleader appearing for the respondent would submit that in the event of non-filing of returns, the assessment order passed under Section 62(1) of the Act would stand withdrawn in terms of Section 62(2) upon filing of the returns, and thereafter the assessee would have to make a representation. He would further submit that though the petitioner approached this Court belatedly, the reason assigned by the petitioner is that the consultant engaged by him had not informed him about the assessment order and that he came to know of the same only subsequently. Considering the said explanation, the case of the petitioner may be considered in accordance with law.

6. For clarity, Section 62(2) of the Tamil Nadu Goods and Services Tax Act, 2017, is extracted hereunder:

> *"Where the registered person furnishes a valid return within thirty days of the service of the assessment order under sub-section (1), the said assessment order shall be deemed to have been*

withdrawn, but the liability for payment of interest under sub-section (1) of section 50 or for payment of late fee under section 47 shall continue.”

7. It is made clear that if any assessment order is passed under Section 62(1) of the Act, the same shall be deemed to have been withdrawn upon filing of the returns within the stipulated period. In the present case, the assessment order was passed on 15.12.2023 for the tax period October 2023, and the petitioner filed the GSTR-3B return on 13.01.2024, i.e., within thirty days. Therefore, Section 62(2) of the Act squarely applies, and the assessment order dated 15.12.2023 stands automatically withdrawn upon the filing of the return.

8. Such being the case, the impugned order is liable to be quashed. No proceedings can be initiated or continued based on the assessment order dated 15.12.2023, which stood withdrawn by operation of law. It is, however, open to the respondent to proceed with a fresh assessment based on the returns filed by the petitioner on 13.01.2024, in accordance with law.

9. In view of the above, the impugned order dated 15.12.2023 is quashed, and the writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

15.12.2025

Index : Yes/No
Internet: Yes/No
Neutral Citation: Yes/No
TSG
To
The Deputy Commercial Tax Officer,
Tuticorin-II Assessment Circle,
No.6, R-North Cotton Road,
Thoothukudi,
Tamil Nadu-628 001.

KRISHNAN RAMASAMY, J.

TSG

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