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W.P.No.27202 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

**W.P.No.27202 of 2025**

**and**

**W.M.P.Nos.30546 & 30550 of 2025**

M/s.Siva Cotton

Represented by Shivashanmugam Proprietor

131 Omalur main road Konganapuram Salem.

Petitioner

Vs.

The State Tax Officer (FAC)

Edappady Assessment Circle Salem.

...Respondent

### **Prayer**

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for records on the files of the respondent in GSTIN 33AVJPS3503L1ZF/2020-21 dated 03.02.2025 and to quash the same.

For Petitioner : M/s.S.Vishnupriya

For Respondent : Mr.C.Harsha Raj  
Special Government Pleader (T)



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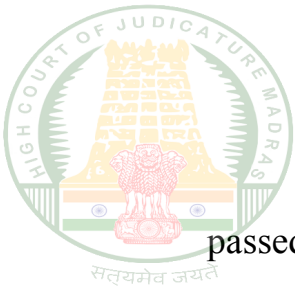
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**Order**

Heard M/s.S.Vishnupriya learned counsel appearing for the petitioner and Mr.C.Harsha Raj, learned Special Government Pleader (T) who takes notice on behalf of the respondent. With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

2. The challenge in this Writ Petition is to the order passed by the respondent dated 03.02.2025 and to quash the same.

3. M/s.S.Vishnupriya, learned counsel appearing for the petitioner would submit that the petitioner, immediately, upon receipt of the show cause notice issued by the respondent/Assessing Officer dated 07.10.2024, vide letter dated 03.01.2025, requested the respondent to grant 15 days' time for filing a detailed reply along with relevant documents, and the petitioner was under the bona fide impression that the respondent would consider their request and would grant time for filing reply, however, the respondent passed the assessment order dated 03.02.2025; that though the order was



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passed after 17 days, the petitioner was totally unaware of the said order,

as, no communication was received by the petitioner with regard to their request made on 03.01.2025.

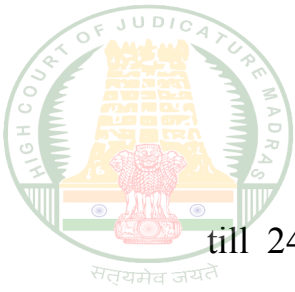
**3.1** It is further contended by the learned counsel for the petitioner that though the petitioner has entrusted the task of complying with the GST statutory procedures to an Auditor, but, the Auditor, due to work pressure, failed to file reply, which resulted in an ex parte impugned order, nor filed Appeal within the prescribed period of limitation; that the petitioner realized the fact of non-filing of Appeal only when the bank account of the petitioner was attached for recovery of arrears of tax amounts, immediately thereupon, the petitioner made a statutory pre-deposit of 10% and filed the Appeal, however, in doing so, there happened to be a delay of 36 days, and hence, the same to be dismissed by the Appellate Authority. Hence, the learned counsel prays either for setting aside the impugned order, in which event, the petitioner is ready and willing to deposit additional 15% of the disputed tax apart from 10% of the statutory pre-deposit already made by the petitioner at the time of filing Appeal or, to relegate the petitioner before



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the Appellate Authority to pursue the appellate remedy challenging the assessment order and thus, seeks for appropriate orders in that regard.

4. Mr.C.Harsha Raj, learned Special Government Pleader for respondent raised strong objection to the contention putforth by the learned counsel for the petitioner by contending that the assessment order passed by the respondent can no longer deemed to an ex parte order, inasmuch as, the respondent after providing sufficient opportunities to the petitioner has passed the assessment order. The learned Special Government Pleader proceeded to buttress his contention by firstly stating that initially, the respondent issued a show cause notice dated 07.10.2024, and vide notice dated 02.12.2024, the petitioner was afforded with an opportunity of personal hearing on 06.01.2025 to appear before the respondent, however, the petitioner failed to appear; that subsequently, vide notice dated 08.01.2025, another personal hearing was scheduled on 13.01.2025, on which date, the petitioner instead of appearing in person, filed a formal reply dated 13.01.2025 seeking for 15 days' time to file a detailed reply, and the said requested was acceded to by the respondent and time was granted



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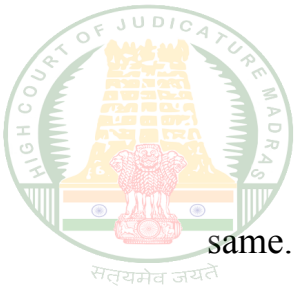
till 24.01.2025 to file reply, and final personal hearing opportunity was

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scheduled on 24.01.2025, on which date even, the petitioner neither appeared for the hearing not submitted their reply, therefore, the respondent passed the assessment order. Therefore, the impugned assessment order passed by the respondent cannot be found fault with by the petitioner by deeming the same to be an ex parte; that though the petitioner's claims to have filed appeal against the assessment order, since the same was filed beyond the condonable period of limitation, the same was rightly dismissed by the Appellate Authority. However, the learned Government Pleader fairly submitted that in the event, this Court is inclined to show any indulgence and pass any orders, the same may be done subject to certain terms.

5. I have given due considerations to the submission made on either side and perused the materials available on record.

6. It is the contention of the learned counsel for the petitioner that the assessment order passed by the respondent, State Tax Officer, is nothing but an ex parte order, as the petitioner was not heard before passing the



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same. Per contra, the said contention was strongly refuted by the learned

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Special Government Pleader by stating that sufficient opportunities were afforded to the petitioner before passing the assessment order.

7. On a perusal of the impugned order, it could be easily deduced as to how many number of opportunities were granted to the petitioner seeking their personal appearance before the respondent and filing reply. After issuance of the show cause notice dated 07.10.2024, the respondent vide notice dated 02.12.2024, fixed the personal hearing on 06.01.2025 to appear before the respondent, however, the petitioner failed to appear, subsequently, vide notice dated 08.01.2025, another personal hearing was scheduled on 13.01.2025, on which date also, the petitioner failed to appear, instead, the petitioner filed reply dated 13.01.2025 requesting for 15 days' time to file a detailed reply. The said requested was even acceded to by the respondent and time was granted till 24.01.2025 to file reply and final personal hearing opportunity was scheduled on 24.01.2025, on which date even, the petitioner neither appeared nor submitted their reply. Therefore, the respondent, having left with no other option, proceeded to confirm the



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proposals contained in the show cause notice and passed the assessment order. Therefore, this Court does not find any fault on the decision making process on the part of the respondent in passing the impugned assessment order.

8. Though at the first blush, the arguments of the learned Special Government Pleader appears to be convincing, this Court upon hearing the submission made by the learned counsel for the petitioner for a brief period, what had transpired is that, even the petitioner cannot be found fault with for their act of non-filing of reply and non-appearance before the Authority. The petitioner, on receipt of the show cause notice dated 07.10.2024, though not filed a detailed reply, however, filed a formal reply on 03.01.2025, (on which date, personal hearing was fixed) and requested the respondent to grant 15 days' time for filing a detailed reply. The said request made by the petitioner was, in fact, considered by the respondent and the respondent also granted time till 24.01.2025 to file reply. Unfortunately, the petitioner has failed to file the reply within the said date. The reason assigned by the petitioner for non-filing of reply is that, the



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Auditor, on whom, the petitioner has entrusted with the task of complying with the statutory procedures, due to pressure of work, neither filed the reply in time, nor informed the same to the petitioner. The petitioner, who was under the genuine expectation that Auditor would take care of the issue, failed to notice even the assessment order passed by the respondent. Only when the petitioner's bank account was attached towards recovery of arrears of tax in furtherance of the impugned assessment order, the petitioner came to understand of the assessment order passed against them. Immediately thereupon, the petitioner made a statutory pre-deposit of 10% and filed the Appeal, however, since there happened to be a delay of 30 days, in doing so, the same was dismissed by the Appellate Authority on the ground of limitation.

9. Therefore, this Court is of the view that the fault is neither on the side of the petitioner nor on the part of the respondent and actually, the fault lies only on the part of the Auditor, whom the petitioner has engaged for GST compliances, who had led the situation more worse for the petitioner, for having engaged him. Therefore, under these circumstances, even if the





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petitioner is permitted to avail the Appellate remedy by relegating them to the Appellate Authority, in the absence of any reply filed by the petitioner, this Court don't think that the petitioner would be able to defend their case before the Appellate Authority. Hence, this Court is of the view that it would be appropriate to remit the back to the respondent for re-consideration however, the same is subject to certain terms.

**10.** Accordingly, this Court is inclined to pass/issue the following orders/directions:-

i) The impugned assessment order dated 03.02.2025 passed by the respondent is set aside and matter is remitted back to the respondent for fresh consideration.

ii) The endorsement made by the learned counsel for the petitioner as regards the petitioner's willingness to pay 15% of the disputed tax is recorded. The petitioner is granted two weeks' time to make such payment, which shall take effect from the date of receipt of a copy of this order.

iii) Thereafter, the petitioner is directed to file reply within a period of two weeks therefrom.

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and

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iv) Thereupon, the respondent is directed to issue a notice affording an opportunity of personal hearing to the petitioner and after hearing the petitioner in full, shall decide the matter in accordance with law.

**11.** In the result, the Writ Petition is allowed on the aforesaid terms.

No costs. Consequently, connected Miscellaneous Petition is closed

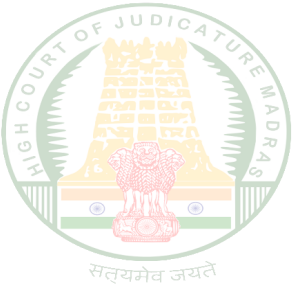
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Index : yes/no

Neutral Citation : yes/no

To  
The State Tax Officer (FAC)  
Edappady Assessment Circle Salem.



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**Krishnan Ramasamy,J.,**

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