IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **03.04.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition No.8921 of 2024
and W.M.P.Nos.9944 & 9945 of 2024

Tvl. M.S. Enterprises,
Rep. by its Proprietor Mr. M. D. Saravanan,
No.12, Vella Street, Villivakkam,
Chennai – 49. ... Petitioner

-vs-

The State Tax Officer,
Villivakkam Assessment Circle,
15&16, 100 feet Road, Malligai Avenue,
Kolathur, Chennai – 600 099. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records in the files of the respondent in Ref No. 33ARHPS2663K1ZG/2022-2023 dated 29.01.2024 and quash the same as being illegal, invalid, against the law and violated the principles of natural justice.

For Petitioner : Mr. D. Vijayakumar

For Respondent : Mr. V. Prashanth Kiran,
Government Advocate (Tax)

ORDER

An assessment order dated 29.01.2024 is assailed on the ground that the petitioner was not provided a personal hearing.

2. The petitioner is a registered person under applicable GST enactments. Upon receipt of the show cause notice dated 23.08.2023, the petitioner submitted a reply dated 06.12.2023. The impugned order was issued thereafter on 29.01.2024.

3. Learned counsel for the petitioner referred to the petitioner's reply dated 06.12.2023 and pointed out that the petitioner had responded to all four defects referred to in the show cause notice. He also pointed out that a personal hearing was expressly requested for by the said reply. By further submitting that such personal hearing was not provided, learned counsel submits that the impugned order calls for interference. He also points out that a personal hearing was held on 22.03.2024 in relation to the same assessment period and that the petitioner submitted several documents at such personal hearing.

4. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondent. He submits that the intimation was issued to the petitioner on 16.06.2023. Therefore, from the date of intimation, he submits that about six months' time was available to the petitioner to produce all relevant documents in respect of the four defects referred to both in the intimation and show cause notice. He further submits that the petitioner was offered a personal hearing on 14.09.2023. Therefore, learned counsel submits that principles of natural justice were adhered to.

5. The petitioner has placed on record the reply dated 06.12.2023. By such reply, the petitioner has responded to all four defects mentioned in the show cause notice. On perusal of the petitioner's reply, it appears that the petitioner did not annex supporting documents. Undoubtedly, the petitioner's failure to annex relevant documents resulted in the rejection of the defence raised by the petitioner to the four defects. However, the failure of the respondent to provide a personal hearing in spite of an express request for a personal hearing vitiates the impugned order.

6. Consequently, the impugned order calls for interference on account of breach of the statutory prescription in sub-section (4) of Section 75 of the Tamil Nadu Goods and Services Tax Act, 2017.

7. For reasons set out above, the order impugned herein is quashed and the matter is remanded for reconsideration. The petitioner is permitted to submit relevant documents in support of the reply to the show cause notice within 15 days from the date of receipt of a copy of this order. Upon receipt thereof, the respondent is directed to provide a personal hearing to the petitioner, and thereafter issue a fresh order within a period of two months from the date of receipt of documents from the petitioner.

8. The writ petition is disposed of on the above terms. There will be no order as to costs. Consequently, connected miscellaneous petitions are closed.

03.04.2024

Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No
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SENTHILKUMAR RAMAMOORTHY,J

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To

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