



W.P.No.25147 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.09.2024

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.25147 of 2024 &
W.M.P.Nos.27418 and 27469 of 2024

Tvl.Oswal Trade links,
Represented by its Proprietor Darsha Lodha
No.49 Audiappa Naicken Street,
Sowcarpet, Chennai- 600079.

... Petitioner

Vs.

1. Deputy Commercial Tax Officer II
Peddunaickenpet Assessment Circle,
Chennai North Division,
No.32, Elephant gate bridge,
Chennai-600 003.

2. Joint Commissioner (ST),
Chennai (North)
Integrated Commercial Tax Office Complex at North
Chennai, Wall Tax Road, Chennai-600 003.

3. Superintendent
Officer of the Principal Commissioner of CGST &
Central Excise, Chennai North,
Room No.205, GST Bhawan, 26/1,
Mahatma Gandhi Road, Nungambakkam,
Chennai-600 034.

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to quash the impugned order dt.20.04.2024 bearing Ref.No.ZD330424153791H for FY2018-19 for GST:33CSWPD2697C1ZJ, issued under Section 73 of the TNGST Act, 2017 by the 1st Respondent and consequently direct the 1st Respondent to drop all related proceeding.

For Petitioner : Mr.S.Saravanakumaran

For Respondents : Mr.C.Harsha Raj
Additional Government Pleader (Taxes)

ORDER

This writ petition has been filed by the petitioner challenging the impugned order dt.20.04.2024 passed by the 1st Respondent under Section 73 of the TNGST Act, 2017 and consequently direct the 1st Respondent to drop all related proceeding.

2. Mr.C.Harsha Raj, learned Additional Government Pleader (Taxes) takes notice on behalf of the respondents.



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

4. The learned counsel for the petitioner would submit that in the present case, initially, the respondent has issued a show cause notice dated 26.12.2023 for which the petitioner replied stating that since they have filed the returns many of the supporting documents are with the 3rd Respondent and therefore they are unable to submit the same, but despite that the 1st Respondent without affording an opportunity of personal hearing has passed an impugned order dated 20.04.2024, demanding tax with interest and penalty and therefore the impugned order passed is in violation of the principles of natural justice. Hence he prays to set aside the same.

5. On the other hand, the learned Additional Government Pleader (Taxes) would submit that the respondents issued Show Cause Notice followed by reminder notices dated 22.03.2024, 01.04.2024 and



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15.04.2024. But the petitioner failed to submit reply in time and therefore the impugned assessment order came to be passed.

6. In reply, the learned counsel for the petitioner would fairly submit that the petitioner is now ready and willing to pay 10% of the disputed tax liability made by the respondents in the event of providing an opportunity to them to file their reply along with the required documents to substantiate their claim, for which, the learned Additional Government Pleader (Taxes) has no serious objection.

7. Heard the learned counsel for the petitioner and the learned Additional Government Pleader (Taxes) for the respondents and also perused the materials available on record.

8. In the present case, it appears that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Hence, this Court is of the view that the impugned order is passed in violation of principles of natural justice and it is just and necessary to



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provide an opportunity to the petitioner to establish their case on merits.

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In such view of the matter, this Court is inclined to set aside the impugned order dated 20.04.2024 passed by the 1st Respondent.

Accordingly, this Court passes the following order:-

(i) The impugned order dated 20.04.2024 is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay 10% of disputed tax to the respondents within a period of **four weeks** from the date of receipt of a copy of this order and the setting aside of the impugned order will take effect from the date of payment of the said amount.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks thereafter.

(iii) On filing of such reply/objection by the petitioner, the respondent shall consider the same and issue a 14 days clear notice by fixing the date of personal hearing to the petitioner and thereafter, pass appropriate orders on merits and in accordance with



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law, after hearing the petitioner, as expeditiously as possible.

9. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

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Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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KRISHNAN RAMASAMY.J.,

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