



WEB COPY



W.P.No.26594 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.09.2024

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.26594 of 2024 &
W.M.P.Nos.29104 & 29105 of 2024

M/s.Sri GK Industries,
Represented by its Proprietor, Mr.M.Isakiraj,
Ground Floor, No.263/13, Kavarai Street,
Athipet, Ambattur,
Chennai - 600 058.

... Petitioner

Vs.

The Deputy State Tax Officer,
Ambattur Industrial Estate Assessment Circle,
Integrated Commercial Taxes Buildings,
Government Farm Village,
Nandanam, Chennai - 600 035.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records in the order passed by the respondent dated 26.04.2024 in Order No.GST/33ACDPI3993H2ZK/18-19 and Summary of the Order in DRC-07 issued in Ref.No.ZD330424215019S, dated 26.04.2024 and quash the orders as arbitrary and illegal.



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For Petitioner : Mr. Joseph Prabakar

For Respondent : Ms. Amirta Poonkodi Dinakaran
Government Advocate (Taxes)

ORDER

Challenging the order and the summary of Order in DRC-07 dated 26.04.2024, the petitioner has filed this writ petition.

2. The learned counsel for the petitioner submits that the respondent issued a show cause notice on 27.12.2023 vide the common portal under "View Additional Notices/Orders." A reminder notice was later issued on 22.04.2024, for which the petitioner filed a reply in FORM GST DRC-06 on the same day. However, without considering this reply, the respondent passed the impugned order on 26.04.2024, allegedly in contravention of Section 75(4) of the GST Act. The learned counsel further submits that after the impugned order was passed, 41% of the demanded tax amount was recovered from the petitioner.

3. Heard the learned Government Advocate (Taxes) appearing for the respondent on the submissions made by the petitioner's counsel.



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4. It is not in dispute that the respondent issued a show cause on 27.12.2023, followed by a reminder notice on 22.04.2024. The order inaccurately suggests that the petitioner neither utilized the opportunity to respond nor provided any vital documentary evidence. However, the petitioner did file a reply on 22.04.2024, prior to the impugned order being passed on 26.04.2024. This failure to consider the petitioner's reply and the lack of opportunity for a personal hearing constitutes a violation of the principles of natural justice. The principles of natural justice mandate that a party must be given a fair and reasonable opportunity to present their case. In the present case, the petitioner was deprived of the opportunity to present their case, as the assessment was finalized without considering the reply and in the absence of a personal hearing. Furthermore, 41% of the demanded tax amount was recovered from the petitioner on 25.07.2024, after the impugned order was passed. Since a significant portion of the tax amount has already been recovered, this Court does not impose any further terms. Given these circumstances, the impugned order is liable to be set aside.

5. Accordingly, the order and the summary of the Order in DRC-07, dated 26.04.2024 is set aside, and the matter is remanded for reconsideration. The petitioner is directed to submit a fresh reply/objection



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along with the necessary documents, if any, within two weeks from the receipt of a copy of this order. Upon receipt of such reply/objection, the respondent shall issue a clear 14-day notice for a personal hearing and thereafter pass appropriate orders on merits and in accordance with law as expeditiously as possible.

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

12.09.2024

Speaking/Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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To

The Deputy State Tax Officer,
Ambattur Industrial Estate Assessment Circle,
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Nandanam, Chennai - 600 035.



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KRISHNAN RAMASAMY.J.,

r n s

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