IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.02.2025

Coram

The Hon'ble Mr.Justice KRISHNAN RAMASAMY

W.P.No.2590 of 2025
and
W.M.P.No.2905 of 2025

M/s.MATAJI HARDWARE
Rep. by its Proprietor Mr.MAHENDRA KUMAR
23, Katpadi Main Road K V Kuppam, Katpadi Tk,
Vellore- 632204. ...Petitioner

Vs.

1. Deputy State Tax Officer,
   GUDIYATHAM (EAST)
   Integrated Taxes Building, R.S.Road,
   Parasurampatty, Veppurvillage,
   Gudiyatham, Vellore- 635803.

2. Deputy Commissioner (Appeal),
   Trichy and Vellore (GST),
   No.4, Barathiyarsalai, Fort RoundRoad,
   Vellore 632001. ... Respondent

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records of the 1st Respondent in Ref. No.ZD3307242179564 dated 18.07.2024 and quash the same as illegal and consequentially remand back the matter to the 1st Respondent for passing a fresh order after consideration of the explanation of the petitioner.

For Petitioner : Mr.V. Kaushik Narayanan

For Respondent : Mr.M.Venkateshwaran (Taxes)

ORDER

This Writ Petition has been filed challenging the order of the 1st respondent dated 18.07.2024 and to quash the same as illegal and consequentially remand back the matter to the 1st Respondent for passing a fresh order after consideration of the explanation of the petitioner.

2. Mr.M.Venkateshwaran, learned Special Government Pleader (Taxes), takes notice on behalf of the Respondents.

3. By consent of the parties, the main Writ Petition is taken up for disposal at the time of admission stage itself.

4. The learned counsel for the petitioner submits that show cause notice dated 18.11.2023 was issued to the petitioner. Since the same was uploaded in the GST Portal belatedly and as the petitioner got admitted in the hospital at the relevant point of time, the petitioner was not aware of the same. In the meantime, the 1st respondent passed the impugned order dated

18.07.2024, demanding tax along with interest and penalty for the Assessment Year 2022-2023.

5. Further, he would submit that impugned assessment order came to be passed without affording an opportunity of hearing to the Petitioner and therefore the same is in violation of principles of natural justice and hence prays to set aside the same.

6. The learned Special Government Pleader (Taxes) appearing for the Respondent submitted that though the Show Cause Notice followed by reminder notices were issued to the Petitioner, by uploading the same in the GST portal, the Petitioner failed to submit its reply and therefore impugned assessment order came be passed.

7. 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 respondent 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 Special Government Pleader (Taxes) appearing for the Respondent would submit that subject to payment of 25% of the disputed tax

liability, the matter may be remanded back to the respondents for fresh consideration.

8. Heard the learned counsel for the petitioner and the learned Special Government Pleader (Taxes) for the Respondent and also perused the materials available on record.

9. In the present case, since the show cause notice was uploaded in the GST portal belatedly, by which time the petitioner was said to be hospitalized and hence the petitioner was not aware of the same and therefore failed to submit its reply.

10. Further, it appears that opportunity of personal hearing was not granted to the Petitioner prior to passing of impugned order. Hence, this Court is of the view that the impugned order passed is in violation of principles of natural justice and it is just and necessary to provide an opportunity to the petitioner to establish their case on merits. In such view of the matter, this Court is inclined to set aside the impugned assessment order dated 18.07.2024 passed by the 1st Respondent. Accordingly, this Court passes the following order:-

(i) The order impugned herein is set aside and the matter is remanded to the Respondent for fresh consideration on condition that as volunteered by the Petitioner, they shall pay 20% of disputed tax to the Respondent 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 law, after hearing the petitioner, as expeditiously as possible.

11. Accordingly, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petition is closed.

03.02.2025
(1/2)

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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To

1. Deputy State Tax Officer,
   GUDIYATHAM (EAST)
   Integrated Taxes Building, R.S.Road,
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   Gudiyatham, Vellore- 635803.

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Krishnan Ramasamy,J.,

arr

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