IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.02.2025

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.2407 of 2025
and
WMP.Nos.2717 and 2718 of 2025

TVL.SOLID STRUCTURES,
Rep by its Proprietor Mr.Paul Charles Malony,
Having office at No.311/5, BELLY AREA,
ANNA NAGAR WEST,
Chennai- 600 040. ...Petitioner

..Vs..

The Deputy State Tax Officer-I,
Office of the Deputy State Officer,
Amaindakarai Assessment Circle,
No.F-50, 2nd Floor, 1st Avenue,
Anna Nagar East, Chennai- 600 102. ... 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 on the file of the Respondent in the Impugned Order dated 26.04.2024 in GSTN/33ADRPC3828Q1Z2/2018-19, under the provisions of CGST Act, 2017 and quash the same and consequently direct the Respondent to pass DE NOVO order.

For Petitioner : Mr.S.Lakshmi Narayanan

For Respondent : Mr.U.Baranidharan
Additional Government Pleader (Taxes)

ORDER

This writ petition has been filed challenging the order of the respondent dated 26.04.2024 in GSTN/33ADRPC3828Q1Z2/2018-19, under the provisions of CGST Act, 2017 and quash the same and consequently direct the Respondent to pass DE NOVO order.

2. Mr.U.Baranidharan, learned Additional Government Pleader (T) takes notice on behalf of the Respondent.

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 submitted that initially the respondent issued Show Cause Notice dated 27.12.2023 followed by personal hearing notice and remainder notices dated 11.01.2024 and 03.04.2024 respectively to the petitioner, for which the petitioner had duly submitted its reply on 06.04.2024. But the respondent, without providing an opportunity of hearing has passed the impugned order on 26.04.2024, demanding tax along with interest and penalty for the Assessment Year 2018-2019 and therefore the impugned order passed is in violation of principles of natural justice. He

further submitted that since the impugned order was uploaded in the GST portal, the petitioner is not aware of the same. They petitioner came to know of the impugned order belatedly and that apart the tax demanded. He therefore prays to set aside the impugned order.

5. The learned Additional Government Pleader (Taxes) appearing for the respondent would submit that the personal hearing was provided to the petitioner on 11.01.2024 as well as on 08.04.2024 and the impugned order came to be passed only after considering the reply filed by the petitioner as well as by affording an opportunity of personal hearing. Therefore, he would submit that principles of natural justice has been duly complied with.

6. In reply, the learned counsel for the petitioner submitted that no personal hearing was granted to the petitioner before the date of reply i.e., on 06.04.2024. He further submitted that if the petitioner was provided with an opportunity of personal hearing, he would have explained the respondent that the tax payment pertains to disputed period and the subsequent period as well. However, he 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 Additional Government Pleader (Taxes) has no serious objection.

7. I have considered the submissions made by the learned counsel appearing on either side and perused the records.

8. As rightly contended by the learned counsel for the petitioner, no opportunity of personal hearing was granted to the petitioner before filing of its reply and if an opportunity of personal hearing was granted, the petitioner could have explained its case to the respondent.

9. In such view of the matter, this Court is inclined to set aside the impugned order dated 26.04.2024 passed by the Respondent. Accordingly, this Court passes the following order:-

> (i) The impugned order dated 26.04.2024 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 ***two 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.

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

03.02.2025

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

The Deputy State Tax Officer-I,
Office of the Deputy State Officer,
Amaindakarai Assessment Circle,
No.F-50, 2nd Floor, 1st Avenue,
Anna Nagar East, Chennai- 600 102.

Krishnan Ramasamy,J.,

arr

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