IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.02.2025

CORAM

**THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY**

**W.P.No.2862 of 2025**
**and W.M.P.Nos.3160 & 3162 of 2025**

M/s.Panvo Organics Private Limited,
Rep by its Authorised Signatory Mr.B.Muthukumar,
No.61, Chinna Obulapuram Village,
SR Kandlgala Road, Gummidipoondi 601 201

... Petitioner

**Vs.**

The Assistant Commissioner,
Gummidipoondi : Tiruvallur : Tamil Nadu.

... 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 of the respondent bearing Ref.No.ZD330424162755C dated 22.04.2024 directing the petitioner to pay a sum of Rs.2,48,952/- towards tax Rs.2,49,224/- towards interest and Rs.24,896/- towards penalty totalling to Rs.5,23,072/- and quash the same.

For Petitioner : Ms.S.Gayathri

For Respondent : Mr.U.Baranidharan,
Additional Government Pleader

**ORDER**

This writ petition has been filed challenging the impugned order dated 12.04.2024 passed by the respondent.

2. Mr.M.Venkateshwaran, learned Special Government Pleader, takes notice on behalf of the respondent. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that in this case, the show cause notice was issued by the respondent on 26.12.2023, for which a reply dated 25.01.2024 was filed by the petitioner. Thereafter, a reminder notice was issued on 07.03.2024 as if no reply was filed, whereby time limit was fixed for filing the reply on or before 14.03.2024 and the date of personal hearing was fixed on 11.03.2024.

Subsequently, the petitioner had filed his reply dated 14.03.2024 stating that they had already filed a detailed reply on 25.01.2024 and the same was uploaded once again. Thereafter, without providing any opportunity of personal hearing, the respondent had passed the impugned order dated 22.04.2024.

4. Further, she referred to the provisions of Section 75(4) of the GST Act, 2017 and would submit that when the respondents are intend to pass an adverse order, they should have provided sufficient opportunity to the petitioner. In such case, it is clear that the impugned order came to be passed not only in contrary to the provisions of Section 75(4) of the GST Act but also in violation of principles of natural justice and hence, she requests this Court to set aside the said impugned order.

5. Per contra, the learned Additional Government Pleader appearing for the respondent would submit that in the present case, initially a show cause notice was issued on 26.12.2023, for which a reply was filed by the petitioner on 25.01.2024. Thereafter, a reminder notice

dated 07.03.2024 has been issued, for which, 2nd reply dated 14.03.2024 was filed by the petitioner along with a copy of the 1st reply dated 25.01.2024. Thereafter, the impugned order came to be passed by the respondent.

6. Further, he would fairly admit that in this case, the personal hearing was fixed by the respondent well before the date of filing of reply and hence, he requests this Court to pass appropriate orders.

7. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent and also perused the materials available on record.

8. In this case, the issue is with regard to the failure on the part of the respondent to provide an opportunity of personal hearing to the petitioner prior to the passing of impugned order dated 22.04.2024.

9. Initially, the notice in Form GST DRC-01 was issued on

26.12.2023, wherein the time limit was fixed for filing the reply on or before 25.01.2024. Accordingly, the reply was filed on 25.01.2024. Further, in the said notice, the date of personal hearing was fixed on 03.01.2024, which is 3 weeks prior to the expiry of time limit, provided by the respondent, for filing the reply.

10. Thereafter, though a detailed reply dated 25.01.2024 was already filed by the petitioner, without considering the same, a reminder notice dated 07.03.2024 has been issued by the respondent, whereby once again the time limit for filing the reply was fixed as on or before 14.03.2024 and the date of personal hearing was fixed on 11.03.2024. Subsequently, the petitioner had filed his 2nd reply dated 14.03.2024 along with a copy of the 1st reply dated 25.01.2024. Thereafter, without providing any opportunity of personal hearing, the respondent had passed the impugned order dated 22.04.2024, which is contrary to the provisions of Section 75(4) of the GST Act, 2017.

11. Normally, the personal hearing should be fixed only after the

filing of reply and if it was fixed before the filing of reply, it will be only for the purpose of Statutory requirements, by which, no useful purpose will be achieved. This Court had came across hundreds of cases, where personal hearing was fixed prior to the date of filing of reply, and held that such fixing of personal hearing will only be an eye-wash and no useful purpose will be achieved. However, the respondent-Officials are not at all following the orders of this Court. Therefore, this Court suggests the Department to conduct refreshing course to the Officers to educate them about the procedures as to how the show cause notices have to be issued and how the date of personal hearing has to be fixed.

12. For all the above reasons, it is clear that the impugned order was passed in violation of principles of natural justice without providing any proper opportunity to the petitioner. In such view of the matter, this Court is inclined to set aside the impugned order dated 22.04.2024 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 22.04.2024 is set aside and the matter is remanded to the respondent for fresh consideration.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of 15 days from the date of receipt of copy of this order.

(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.

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

**04.02.2025**

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

**KRISHNAN RAMASAMY.J.,**

nsa

To

The Assistant Commissioner,
Gummidipoondi : Tiruvallur : Tamil Nadu.

**W.P.No.2862 of 2025**
**& W.M.P.Nos.3160 & 3162 of 2025**

**04.02.2025**