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W.P.No.3089 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.02.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.3089 of 2025

and

W.M.P.Nos.3377 & 3382 of 2025

M/s.Olam Enterprises,
Rep by its Proprietor, D.Priya,
No.511B, Marungur Main Road,
Panruti, Tamil Nadu 607 103

... Petitioner

Vs.

State Tax Officer (Intelligence),
Cuddalore Division,
Station No.1, Vallalar Nagar,
Cuddalore 607 001

... 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 relating to the impugned order bearing Ref.No.GSTIN 33CXEPP4566K2Z1/2022-23 dated 29.05.2024 passed by the respondent.



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For Petitioner : Mr.A.N.R.Jayaprathap

For Respondent : Mr.V.Prashanth Kiran,
Government Advocate

ORDER

This writ petition has been filed challenging the impugned order dated 29.05.2024 passed by the respondent.

2. Mr.V.Prashanth Kiran, learned Government Advocate, 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 all notices/communications were uploaded by the respondent in the GST portal. Since the petitioner was not aware of the said notices, they failed to file their reply within the time. Under these circumstances, the impugned order came to be passed by the respondent without providing



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any opportunity of personal hearing to the petitioner. Hence, this petition has been filed.

4. Further, he would submit that there is no tax liabilities and only penalty has been imposed by the respondent for wrong availment of ITC. He would also submit that the petitioner is willing to pay 10% of the penalty amount to the respondent. Hence, he requests this Court to grant an opportunity to the petitioner to present their case before the respondent by setting aside the impugned order.

5. On the other hand, the learned Government Advocate appearing for the respondents would submit that the respondents had issued the show cause notice and reminder notices to the petitioner. But the petitioner failed to avail the said opportunity. Further, he has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, he requested this Court to remit the matter back to the respondent, subject to the payment of 10% of the penalty amount by the petitioner.



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6. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondent and also perused the materials available on record.

7. In the cases on hand, it is clear that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order, whereby the respondent had imposed penalty against the petitioner for wrongful availment of ITC. Hence, this Court is of the view that the impugned order was passed in violation of principles of natural justice since it is just and necessary to provide an opportunity to the petitioner to establish their case on merits.

8. Further, it was submitted by the learned counsel for the petitioner that the petitioner is willing to pay 10% of the penalty amount to the respondent. In such view of the matter, this Court is inclined to set aside the impugned order dated 29.05.2024 passed by the respondent. Accordingly, this Court passes the following order:-



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(i) The impugned order dated 29.05.2024 is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay 10% of penalty amount to the respondent within a period of four weeks from today (20.02.2025) 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 three weeks 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.



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

20.02.2025

Speaking/Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

nsa

To

State Tax Officer (Intelligence),
Cuddalore Division,
Station No.1, Vallalar Nagar,
Cuddalore 607 001



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KRISHNAN RAMASAMY.J.,

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