IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.02.2025

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.3132 of 2025
and
W.M.P.Nos.3449, 3452 and 3536 of 2025

Tvl.S.Selvaraj Vasanthakumar
Rep. by its Proprietor,
No.1/21, R.S.Road, Veppur Village,
Gudiyatham, Vellore-632602. ...Petitioner

..Vs..

1. The State Tax Officer (Inspection-1),
   Villupuram Camp@ Vellore.

2. The State Tax Officer,
   Gudiyatham (East). ... Respondents

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for 1st Respondent's order dated 01.08.2023 in GSTIN:33ADOPV1971E1ZB/1971E1ZV/2020-2021 and its Consequential Recovery Notice issued by the 2nd Respondent dated 16.12.2024 in Form GST DRC-13 and quash the same.

For Petitioner : Mr.Adithya Reddy

For Respondent : Mr.V.Prashanth Kiran

ORDER

The challenge in this writ petition is to the order of the 1st Respondent dated 01.08.2023 in GSTIN:33ADOPV1971E1ZB/1971E1ZV/2020-2021 and its Consequential Recovery Notice issued by the 2nd Respondent dated 16.12.2024 in Form GST DRC-13 and quash the same.

2. Mr.V.Prashanth Kiran, learned Counsel 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 would submit that during the course of inspection conducted on 30.01.2025, the respondents have arrived at a value of tax outstanding and collected the said amount from the petitioner and thereafter the respondents issued Show Cause Notice to the petitioner and the same was uploaded in the "View Additional Notices and Orders" instead of "Notices" tab in the GST Portal and therefore the Petitioner was not aware of the Show Cause Notice and hence they had failed to file their reply. Under these

circumstances, the impugned assessment order dated 01.08.2023 came to be passed by the Respondent demanding penalty and interest for the Assessment Year 2020-2021.

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 therefore prays to set aside the same. He further submitted that since the petitioner has already remitted the concerned tax to the Government through Form DRC-3, there is no question of evasion of tax.

6. On the other hand, the learned counsel for the respondents would submit that the respondent uploaded the show cause notice as well as the personal hearing notice in the online portal. But the Petitioner failed to submit reply to substantiate its case and therefore the impugned order came be passed. He would further submit that at the time of inspection, the petitioner voluntarily paid the tax outstanding and prayed for appropriate orders.

7. In reply, the learned counsel for the petitioner would submit that the petitioner has paid the tax outstanding at the time of inspection only on the insistence of the Department.

8. Heard both sides and also perused the materials available on record.

9. In the present case, since the show cause notice was uploaded in the GST portal in the "View Additional Notices and Orders" instead of "Notices" tab in the GST Portal, the petitioner was not aware of the show cause notice and hence failed to submit its reply for the show cause notice.

10. Further, it appears that no opportunity of personal hearing was provided to the Petitioner prior to the passing of impugned order that apart entire tax outstanding has been collected from the petitioner. 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 order dated 01.08.2023 passed by

the 1st Respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 01.08.2023 is set aside and the matter is remanded to the Respondents for fresh consideration.

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

03.02.2025

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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Krishnan Ramasamy,J.,

arr

To

1. The State Tax Officer (Inspection-1),
   Villupuram Camp@ Vellore.

2. The State Tax Officer,
   Gudiyatham (East).

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