IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.02.2025

CORAM

THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.2875 of 2025
and W.M.P.Nos.3167 & 3171 of 2025

M/s.Silent Valley Restaurant,
Rep by its Prop: Yedhukulesh Krishnan,
No.12/74, Commercial Road, Ooty,
The Nilgiris – 643 001. .. Petitioner

Vs.

The Deputy state Tax Officer-II,
Udhagai North Circle,
Uthagamandalam, The Nilgiris. .. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue Writ of Certiorarified Mandamus, calling for the records on the file of the respondents in GSTIN:33AANPY1896K1ZU/2019-20 dated 20.08.2024 for the Tax Period 2019-2020 and quash the same and consequently direct the respondent.

For Petitioner : Ms.M.Reena
for Mr.J.Bharathi Raja

For Respondent : Mr.C.Harsha Raj
Additional Government Pleader (Tax)

ORDER

This Writ Petition has been filed by the petitioner seeking to call for the records on the file of the respondents in GSTIN: 33AANPY1896K1ZU / 2019-20 dated 20.08.2024 for the Tax Period 2019-2020 and quash the same and consequently direct the respondent.

2.Learned counsel appearing for the petitioner would submit that, in the present case, the petitioner have not received any show cause notice and also personal hearing notice. All those notices were uploaded in the GST Portal tab in view additional notices column and the petitioner had no ocassion to open the GST Portal. Even the impugned order was also uploaded in the view additional notices column, which is violation of principle of natural justice. She would further submit that the petitioner is ready and willing to pay 25% of the disputed tax demand in respect of the impugned assessment period and prayed to set aside the impugned order directing the respondent to permit the petitioner to file their reply and provide an opportunity of personal hearing so that the petitioner would be able to substantiate their case.

3.Learned Additional Government Pleader appearing for the respondent would submit that as per the voluntary submissions made by the learned counsel for the petitioner, subject to the deposit of 25% of the disputed tax demand by the petitioner in respect of the impugned assessment period, this Court can consider and pass appropriate orders.

4.Heard the learned counsel appearing for the petitioner as well as the learned Additional Government Pleader and perused the materials available on record.

5.Considering the above submissions made by the learned counsel on either side and upon perusal of the materials, it is evident that the impugned show cause notice was issued through the GST Portal Tab. According to the petitioner, the petitioner was not aware of the issuance of the show cause notice issued through the GST Portal and the original of the said show cause notice was not furnished to them. In such circumstances, this Court is of the view that the impugned order came to be passed without affording opportunity of personal hearing to the petitioner to establish their case, thereby violating the principles of natural justice and that it is just and necessary to provide an opportunity to the petitioner to establish their case on merits and in accordance with law.

6.For the reasons stated above, this Court is inclined to set aside the impugned order dated 20.08.2024 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The order impugned herein is set aside on condition that the petitioner deposits 25% of the disputed tax amount in respect of the impugned assessment period, as agreed by the petitioner, within a period of four weeks from the date of receipt of a copy of this order.

(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.

7.With the above directions, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

03.02.2025

rst

Index : Yes/No
Internet: Yes/No
Speaking/Non-Speaking Order

To:

The Deputy state Tax Officer-II,
Udhagai North Circle,
Uthagamandalam, The Nilgiris.

KRISHNAN RAMASAMY, J.

rst

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