IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.02.2025

CORAM

THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.3576 of 2025
and W.M.P.Nos.3961 & 3962 of 2025

M/s.Kayram Builders,
(Represented by its Partner
Mr.Kalaimony),
35/F-3, Sai Krupa Apartment,
Taramani Link Road, Velachery,
Chennai – 600 042. .. Petitioner

Vs.

The Deputy state Tax Officer-I,
Velachery Assessment Circle,
No.571, Integrated Commercial Taxes and
Registration Department (South Tower),
Room No.223, 2nd Floor, Nandanam,
Chennai – 600 035. .. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue Writ of Certiorari, calling for the records on the files of the respondent herein in his proceeding in FORM GST DRC – 07 with Reference No:ZD3308241648823 dated 20.08.2024 along with detailed order in GSTIN/33AAMFK0877H1Z6/2019-20 dated 20.08.2024 for the assessment year 2019-20 and quash the same.

For Petitioner : Mr.K.A.Parthasarathy
For Respondent : Mr.V.Prashanth Kiran
Government Advocate (Tax)

ORDER

This Writ Petition has been filed by the petitioner seeking to call for the records on the file of the respondent in his proceeding in FORM GST DRC – 07 with Reference No:ZD3308241648823 dated 20.08.2024 along with detailed order in GSTIN/33AAMFK0877H1Z6/2019-20 dated 20.08.2024 for the assessment year 2019-20 and quash the same.

2.Mr.V.Prashanth Kiran, learned Government Advocate (Tax), takes notice on behalf of the respondent.

3.By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

4.Learned counsel appearing for the petitioner would submit that the impugned order has been passed without issuing any notices physically and without conducting personal hearing. 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. He would further submit that the petitioner remitted 50% of the tax liability under the wrong head and hence, the impugned demand arises on account of difference between FORM GSTR1 and GSTR3B. Even the impugned order was also uploaded in the view additional notices column, which is violation of principle of natural justice and therefore, he would submit that the petitioner has a strong case to contest 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.

5.Learned Additional Government Pleader appearing for the respondent would submit that since the petitioner deposited 50% of the disputed tax demand under wrong head, subject to the deposit of 10% of the remaining 50% of the disputed tax demand by the petitioner in respect of the impugned assessment period, this Court can consider and pass appropriate orders.

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

7.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.

8.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 10% of the remaining 50% of the disputed tax amount in respect of the impugned assessment period, 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.

9.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

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Index : Yes/No

Internet: Yes/No
Speaking/Non-Speaking Order

KRISHNAN RAMASAMY, J.

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To:

The Deputy state Tax Officer-I,
Velachery Assessment Circle,
No.571, Integrated Commercial Taxes and
Registration Department (South Tower),
Room No.223, 2nd Floor, Nandanam,
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