IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.03.2025

CORAM

THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.3632 of 2025
and W.M.P.No.4031 of 2025

M/s.Iraivi,
Rep. by its Sole Proprietor,
Vijaya Gurunatha Sethupathi,
No.34/24 Rajendran Street, Thiru Nagar,
Valasarvakkam,
Chennai – 600 087. .. Petitioner

Vs.

1.Assistant Commissioner (ST),
Kilpauk Assessment Circle,
3rd Floor, PAPJM Annex Building No.1,
Greams Road, Chennai – 600 006.

2.State Tax Officer,
Group-III, Inspection,
Intelligence-I,
Room No.119, 1st Floor, PAPJM Building,
Greams Road, Chennai – 600 006. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue Writ of Certiorari, to call for the records on the file of the 1st respondent and quash the 1st respondent's order under Section 73 and the consequential DRC-07 dated 19.08.2024 in GSTN/33ALBPV6020D1ZJ/2019-2020 passed in Reference No.ZD330824150285F dated 19.08.2024.

For Petitioner	: Mr.R.Sankaranarayanan Senior Counsel
For Respondent	: Mr.C.Harsha Raj Additional Government Pleader

ORDER

This Writ Petition has been filed by the petitioner seeking to call for the records on the file of the 1st respondent and quash the 1st respondent's order under Section 73 and the consequential DRC-07 dated 19.08.2024 in GSTN/33ALBPV6020D1ZJ/2019-2020 passed in Reference No.ZD330824150285F dated 19.08.2024.

2.Learned counsel for the petitioner would submit that the 1st respondent issued two show cause notices in DRC-01 dated 21.05.2024 and 31.05.2024 raising six discrepancies. Out of those six discrepancies, three issues were already covered by the respondent Department in DRC 01 A, for which, the petitioner submitted their reply. Considering the replies, the same was dropped by the 2nd respondent. However, once again those issues were raised in addition to the other three issues in DRC-01. Though the petitioner filed their reply on 03.08.2024 stating that some of the issues have already been covered by the 2nd respondent and the order was passed dropping those issues, the 1st respondent has passed the impugned order dated 19.08.2024 without considering the replies of the petitioner. He would further submit that FORM ASMT-10 was not issued prior to the issuance of notice under DRC-01. Further, the petitioner had already deposited 10% of the disputed tax demand and the petitioner is ready and willing to pay a sum of Rs.50,000/- in addition to the 10% deposit already made in respect of the impugned assessment period. Therefore, he prayed to set aside the impugned order directing the respondents 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.Mr.C.Harsha Raj, learned Additional Government Pleader appearing for the respondents would fairly submit that the petitioner has mentioned about the three issues which were considered and dropped by the 2nd respondent in their reply dated 03.08.2024. However, the impugned order came to be passed. Therefore, if the Court feels it appropriate and it is a fit case for re-consideration, this Court may consider and pass orders.

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

5.Considering the submissions made by the learned counsel for the petitioner as well as the learned Additional Government Pleader appearing for the respondents, it is evident that though the reply has been filed by the petitioner regarding the issues which were already covered by the 2nd respondent and the order was also passed dropping those issues, without considering the same, the 1st respondent has passed the impugned order with non-application of mind.

6.Thus, in such circumstances, this Court is of the view that the assessment order came to be passed without considering the reply filed by the petitioner and 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.

7.For the reasons stated above, this Court is inclined to set aside the impugned order dated 19.08.2024 passed by the 1st respondent. Accordingly, this Court passes the following order:-

> (i) The order impugned herein is hereby set aside on condition that the petitioner deposits a sum of Rs.50,000/- in addition to the 10% deposit already made 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.
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> (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.

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

17.03.2025

rst

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

To:

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KRISHNAN RAMASAMY, J.

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