IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.02.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.4264 of 2025
and
W.M.P.Nos.4772 & 4774 of 2025

M/s.Oasys Cybernetics Private Limited,
Represented by its General Manager (Finance),
Mr.Debasisha Samal,
No.3, OAS Towers, Stringers Road,
Vepery, Chennai 600 003

... Petitioner

Vs.

1.The Assistant Commissioner (ST)(FACT),
Intelligence I, PAPJM Building,
Room No.133, 1st Floor,
No.1, Greams Road,
Chennai 600 006.

2.State Tax Officer,
Inspection I, Intelligence 1,
PAPJM Buildings,
No.1, Greams Road,
Chennai 600 006

... 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 in detailed impugned order bearing Ref. No. detailed order in No.GST/33AACCo2848M1Z8/2020-21 dated 29.10.2024 read with DRC-07 Order No.ZD3310242280136 dated 29.10.2024 passed by the 1st respondent and quash the same.

For Petitioner : Mr.M.S.Krishnakumar

For Respondent : Mr.T.N.C.Kaushik,
Additional Government Pleader

ORDER

This writ petition has been filed challenging the impugned order dated 29.10.2024 passed by the 1st respondent.

2. Mr.T.N.C.Kaushik, learned Additional Government Pleader, takes notice on behalf of the respondents. 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 in this case, the show cause notice and other reminder notices were issued by the respondent, for which, three detailed replies were filed by the petitioner on different dates. In the said replies, it has been categorically stated that the petitioner had furnished all the particulars in the form of excel sheet. However, while passing the impugned order, the reply filed by the petitioner was rejected by the respondent on the aspect that the bank statements and ledger extracts were not produced by the petitioner. According to the petitioner, if any bank statement or ledger extract is sought for by the respondent, the petitioner would have provided the same prior to the passing of impugned order.

4. Further, he would contend that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order, which is violation of principles of natural justice. In this regard, he referred to the provisions of Section 75(4) of the GST Act, 2017 and would submit that while confirming the demand, the respondent should have provided sufficient opportunity to the petitioner. Hence, he requests this Court to set aside the said impugned order.

5. In reply, the learned Additional Government Pleader, appearing for the respondent would submit that an opportunity of personal hearing was provided to the petitioner prior to the filing of reply, however, no such opportunity was provided subsequent to the filing of reply. Hence, he requests this Court to pass appropriate orders.

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

7. In the case on hand, it is an admitted fact that no opportunity of personal hearing was provided to the petitioner subsequent the filing of reply. As per the provisions of Section 75(4) of the GST Act, if the respondent is intend to pass any adverse order, it is mandatory for them to provide sufficient opportunity to the petitioner subsequent to the filing of reply and prior to the passing of assessment order. However, in this case, the impugned order has been passed against the petitioner without providing any such opportunity of personal hearing, which is not only

contrary to the provisions of Section 75(4) of the GST Act, but also in violation of principles of natural justice. In such view of the matter, this Court is inclined to set aside the impugned order dated 29.10.2024 passed by the 1st respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 29.10.2024 is set aside and the matter is remanded to the 1st respondent for fresh consideration.

(ii) The petitioner shall file their reply/objection along with the required documents, viz, bank statements and ledger extracts, 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 1st 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, this writ petition is disposed of. No

costs. Consequently, the connected miscellaneous petitions are also closed.

10.02.2025

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
nsa

To

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Chennai 600 006.

2.State Tax Officer,
Inspection I, Intelligence 1,
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KRISHNAN RAMASAMY.J.,

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