IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :12.02.2025

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THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.4719 of 2025
and W.M.P.Nos.5238 & 5241 of 2025

Gem Corporation,
Represented by its Proprietor
J.Gnanaprakash,
No.5, SBI Colony, Police Manickam Street,
Ayanavaram,
Chennai – 600 023. .. Petitioner

Vs.

The State Tax Officer,
(Formerly known as Commercial Tax Officer),
Ayanavaram:Central-II-Chennai Central,
No.1 Greams Road, 3rd Floor,
PAPJM Annex Building,
Chennai 600 006. .. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue Writ of Certiorari, calling for the records of the respondent in Reference Number:ZD330824054382G/2019-20 dated 07.08.2024 and quash the same.

For Petitioner	:	Ms.V.Vijayalakshmi for Mr.S.Ramanan
For Respondent	:	Mr.V.Prashanth Kiran Government Advocate (T)

ORDER

This writ petition has been filed by the petitioner seeking to call for the records of the respondent in Reference Number: ZD330824054382G / 2019-20 dated 07.08.2024 and quash the same.

2.Mr.V.Prashanth Kiran, learned Government Advocate (Taxes) 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 show cause notice in Form DRC-01 dated 30.05.2024 was issued by the respondent to the petitioner. In response, on 30.06.2024, the petitioner vide Form DRC-06 requested time for 15 days to file a detailed reply.

Accordingly, on 19.07.2024, the petitioner had promptly uploaded the detailed reply. Thereafter, the impugned assessment order dated 07.08.2024 has been passed without providing an opportunity of personal hearing, which is violation of principles of natural justice. Hence, the present writ petition has been filed challenging the impugned assessment order dated 07.08.2024.

5.Mr.V.Prashanth Kiran, learned Government Advocate appearing for the respondent would submit that, in the present case, the notice in Form DRC-01 was issued on 30.05.2024 by providing personal hearing on 12.06.2024 and time limit was also provided for filing replying till 30.06.2024. Therefore, the question of not providing opportunity of personal hearing does not arise. Hence, taking into consideration all these aspects, this Court may pass appropriate orders.

6.Heard the learned counsel for the petitioner as well as the learned Government Advocate appearing for the respondent.

7.Considering the submission made by the learned counsel for the petitioner and the learned Government Advocate appearing for the respondent, it appears that the show cause notice was issued by the respondent in Form DRC-01 on 30.05.2024, granting time to file reply till 30.06.2024 and a date for personal hearing on 12.06.2024. Thereafter, the petitioner sought some more time to file his reply vide Form DRC-06 on 30.06.2024 and filed his detailed reply on 19.07.2024. Subsequently, on 07.08.2024, impugned assessment order came to be passed.

8.Learned Government Advocate again and again by referring the DRC-01 dated 30.05.2024, submits that the date for personal hearing was provided on 12.06.2024. Upon hearing and perusal of records, this Court feels that providing a opportunity of personal hearing before the filing of reply by the petitioner will not serve any purpose. In the present case, the date for personal hearing was given on 12.06.2024, but the date for filing reply was granted till 30.06.2024. The respondent supposed to have provided an opportunity of personal hearing after receiving the reply from the petitioner. Thus, this Court find fault in the decision making process of the respondent for a reason that without providing an opportunity of personal hearing, has passed the impugned assessment order, which will amount to depriving the interest of the petitioner and the same amounts to to the violation of principles of natural justice. Accordingly, this Court passes the following orders:-

(i) The order impugned herein is set aside and the matter is remanded back to the respondent for re-consideration.

(ii) The respondent shall 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 direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

12.02.2025

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Index : Yes/No
Neutral Citation: Yes/No

KRISHNAN RAMASAMY, J.

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To:

The State Tax Officer,
(Formerly known as Commercial Tax Officer),
Ayanavaram:Central-II-Chennai Central,
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