IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.02.2025

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.4927 of 2024
and
W.M.P.Nos.5457 and 5458 of 2025

M/s.Xavier and Sons,
Represented by its Proprietor,
Mr.Xavier Mount Britto,
S/o.Xavier,
No.356A, M.T.H.Road, Modern City,
Avadi, Tiruvallur District- 600 072. ...Petitioner

..Vs..

The Assistant Commissioner (ST)(FAC),
Avadi Assessment Circle,
Integrated Commercial Taxes Buildings,
Wall Tax Road, Chennai-3. ... Respondent

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records pertaining to the impugned order dated 22.10.2024 passed by the Respondent against Petitioner's Firm vide GSTIN-33AFOPB2329A1Z5 for the Assessment Year 2021-2022 and quash the same as illegal, arbitrary and against the principles of natural justice.

For Petitioner : Mr.K.M.Malarmannan

For Respondent : Mrs.K.Vasanthamala
Government Advocate (Taxes)

ORDER

The challenge in this writ petition is to the order dated 22.10.2024 passed by the respondent and to quash the same.

2. Mrs.K.Vasanthamala, 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 time of admission stage itself.

4. The learned counsel for the petitioner submits that the respondent issued show cause notice to the petitioner on 24.05.2022, for which the petitioner submitted its detailed reply on 08.10.2024. But the respondent without considering the same and without affording an opportunity of personal hearing has passed the impugned order dated 24.10.2024 and therefore the impugned order passed is in violation of principles of natural justice and therefore prays to set aside the same.

5. Further, he would submit that petitioner is now ready and willing to pay 10% of the disputed tax liability made by the respondent in the event of providing an opportunity to them to substantiate their claim.

6. On the other hand, the learned Government Advocate (Taxes) appearing for the Respondent would submit that the impugned order came to be passed only after considering the reply filed by the petitioner, however she fairly admit that opportunity of personal hearing was not granted to the petitioner, prior to passing of impugned order and she prays for appropriate orders.

7. Heard the learned counsel for the petitioner and the learned Government Advocate (Taxes) for the respondent and also perused the materials available on record.

8. Having regard to the admitted fact that the impugned order came to be passed without hearing the petitioner in violation of the principles of natural justice, and also considering the submissions made by the learned counsel on either side, this court passes the following order:-

(i) The order impugned herein is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall 10% of the disputed tax liability to the respondent within a period of ***four weeks*** from the date of receipt of a copy of this order and the setting aside of the impugned orders will take effect from the date of payment of the said amount.

(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 pass appropriate orders on merits and in accordance with law, after providing an opportunity of personal hearing to the petitioner, as expeditiously as possible.

9. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

17.02.2025

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

To

The Assistant Commissioner (ST)(FAC),
Avadi Assessment Circle,
Integrated Commercial Taxes Buildings,
Wall Tax Road, Chennai-3.

Krishnan Ramasamy,J.,

arr

W.P.No.4927 of 2025

17.02.2025