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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.02.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.4943 of 2025
and W.M.P.Nos.5484, 5485 & 5490 of 2025

Tvl S Selvaraj Vasanthakumar
Rep By Its Proprietor, No. 1/21,
R.S. Road, Veppur Village,
Gudiyatham, Vellore-632 602

... Petitioner

Vs.

1.The State Tax Officer(Inspection-1)
O/o.Deputy Commissioner (ST)(Inspection),
Villupuram Camp @ Vellore

2.The State Tax Officer,
Gudiyatham (East)

... Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the 1st respondent order dated 01.08.2023 in GSTIN 33ADOPV1971E1ZB/2021-22 and its consequential recovery notice issued by the 2nd respondent dated 16.12.2024 in Form GST DRC-13 and quash the same.

For Petitioner : Mr.Adithya Reddy
For Respondent : Mr.V.Prashanth Kiran,
Government Advocate

ORDER

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This writ petition has been filed challenging the impugned order dated 01.08.2023 passed by the 1st respondent and the consequential recovery notice dated 16.12.2024 issued by the 2nd respondent.

2. Mr.V.Prashanth Kiran, learned Government Advocate, 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 all notices/communications were uploaded by the respondents under the column, viz., "View Additional Notices and Orders", in the GST portal. Since the petitioner was not aware of the said notices, they failed to file their reply within the time. Under these circumstances, the impugned order came to be passed by the respondent without providing any opportunity of personal hearing to the petitioner. Hence, this petition has been filed.

4. Further, he would submit that the petitioner has already deposited the entire disputed tax amount to the respondent. Hence, he

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requests this Court to grant an opportunity to the petitioner to present their case before the respondent by setting aside the impugned orders.

5. On the other hand, the learned Government Advocate appearing for the respondents would submit that the respondents had uploaded the notices in the GST Online Portal. But the petitioner failed to avail the said opportunity. Further, he has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, he requested this Court to remit the matter back to the 1st respondent.

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

7. In the cases on hand, it is clear that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Hence, this Court is of the view that the impugned order was

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passed in violation of principles of natural justice since it is just and necessary to provide an opportunity to the petitioner to establish their case on merits.

8. Further, it was submitted by the learned counsel for the petitioner that the petitioner had already paid the entire disputed tax amount to the respondent. In such view of the matter, this Court is inclined to set aside the impugned order dated 01.08.2023 passed by the 1st respondent. Accordingly, this Court passes the following order:-

> (i) The impugned order dated 01.08.2023 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, 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

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law, after hearing the petitioner, as expeditiously as possible.

(iv) Considering the fact that the impugned order itself has been set aside, this Court is of the opinion that the recovery notice dated 16.12.2024 issued by the 2nd respondent cannot survive any longer and hence, it is quashed.

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

14.02.2025

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

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KRISHNAN RAMASAMY.J.,

nsa

To

1.The State Tax Officer(Inspection-1)
O/o.Deputy Commissioner (ST)(Inspection),
Villupuram Camp @ Vellore

2.The State Tax Officer,
Gudiyatham (East)

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