IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :13.02.2025
Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.4836 of 2025
and
W.M.P.Nos.5355 & 5356 of 2025

Tvl. Jayalakshmi Steel Corporation
Rep. by its Partner Ravichandran ...Petitioner

Vs.

The Assistant Commissioner
Podanur Assessment Circle,
Commercial Tax Building
Dr.Balasundaram Road,
Coimbatore – 641 018. ...Respondent

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified to call for records pertaining to the impugned order bearing Ref No.ZD330724131296H dated 10.07.2024 issued by the respondent and to quash the same as arbitrary.

For Petitioner : Mr.G.Derrick Sam

For Respondent : Mr.V.Prashanth Kiran
Government Advocate (T)

Order

Heard Mr.G.Derrick Sam learned counsel appearing for the petitioner and Mr.V.Prashanth Kiran, learned Government Advocate (T) who takes notice on behalf of the respondent. With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

2. The challenge in this Writ Petition is to the order dated 10.07.2024 passed by the respondent and to quash the same as arbitrary.

3. The learned counsel for the petitioner would submit that all the notices/communications, which culminated in the impugned order were merely uploaded in the GST portal, which, the petitioner had no occasion to view the same, therefore, the petitioner could not file reply nor appear for the personal hearing, however, the respondent, without waiting for the petitioner's reply and without hearing the petitioner, passed the impugned order, which is nothing but an ex parte order, as the same suffers from violation of principles of natural justice.

3.1 The learned counsel for the petitioner further submitted that the petitioner is ready and willing to deposit 25% of the disputed tax, in the event, this Court is inclined to set aside the impugned order, and hence, prays for appropriate orders.

4. The learned Government Advocate (T) for the respondent fairly submitted that since the petitioner has voluntarily come forward to deposit 25% of the disputed tax, the prayer sought for by the petitioner may be considered.

5. I have given due considerations to the submissions made on either side and perused the materials available on record.

6. On perusal of records, it is crystal clear that the impugned order came to be passed against the petitioner, behind their back, as the respondent-Department has not taken any steps to serve any notices/communications through any physical mode of service, particularly, by RPAD, and made it available only in the GST Portal under the "View of additional notices and orders' column, which the petitioner was not aware, and only when the petitioner received a call from respondent's Office during the January, 2025, the petitioner came to know of the impugned assessment proceedings.

6.1 Thus, the respondent passed the impugned order without even affording any opportunity of hearing to the petitioner, which is nothing by an ex parte order, as the same suffers from violation of principles of natural justice. Thus, once the order is passed in violation of principles of natural justice, this Court cannot impose any condition requiring the petitioner to make any deposit, however, since the petitioner, themselves, have voluntarily come forward to deposit 25% of the disputed tax, to which, the learned Government Advocate (T) is also agreable, this Court passes the following orders/directions:-

i) The impugned order dated 10.07.2024 passed by the respondent is set aside.

ii) Consequently, the matter is remanded to the respondent for fresh consideration.

iii) The petitioner is granted liberty to deposit 25% of the disputed tax, which the petitioner themselves have voluntarily came forward to make such payment within a period of four weeks from the date of receipt of a copy of this order.

iv) Thereafter, the petitioner is directed to file a reply along with supportive documents within a period of two weeks.

v) Thereupon, the respondent is directed to consider the reply and shall issue a clear 14 days notice affording an opportunity of personal hearing to the petitioner and shall decide the matter in accordance with law.

7. In the result, the Writ Petition is allowed on the aforesaid terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

13.02.2025

sd
Index : yes/no
Neutral Citation : yes/no

To

The Assistant Commissioner
Podanur Assessment Circle,
Commercial Tax Building
Dr.Balasundaram Road,
Coimbatore – 641 018.

Krishnan Ramasamy,J.,

sd

W.P.No.4836 of 2025

13.02.2025