IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21-02-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 6101 of 2025 and
WMP.Nos.6714 and 6715 of 2025

M/s.Ss Surgical (33admfs4982q1z3)
Rep By Its Managing Partner
T.D.K.Abinaya, Mkp Colony,
No.2, First Street, Maniakarampalayam,
Coimbatore-641 006 Petitioner

..Vs..

The Deputy State Tax Officer
Ganapathy Assessment Circle, Ct Buildings,
Dr.Balasundaram Road,
Coimbatore-641 018 Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the impugned order on the file of Respondent vide GSTIN 33ADMFS4982Q1Z3/2018-19 dated 16.04.2024, quash the same.

For Petitioner : Mr.J.Madhusuthanan
For Respondent : Mr.C.Harsha Raj
Special Government Pleader

ORDER

This writ petition has been filed by the petitioner challenging the order of the Respondent dated 16.04.2024 and to quash the same.

2. Mr.C.Harsha Raj, learned Special Government Pleader takes notice for the respondent.

3. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

4. The learned counsel for the petitioner would submit that in the present case the show cause along with personal hearing notices were issued to the petitioner and the same were uploaded in the "Additional Notices and Orders" column in the GST Portal. Due to lack of knowledge about the usage of GST Portal by the Petitioner's staff, the

petitioner was not aware of the same and hence could not file its reply. Simultaneously, impugned assessment order 16.04.2024 came to be passed demanding tax along with interest and penalty for the assessment year 2019-2020.

5.Further, he would submit that impugned order came to be passed without affording an opportunity of hearing to the Petitioner and therefore the same is in violation of principles of natural justice and therefore prays to set aside the same.

6. On the other hand, the learned Special Government Pleader (Taxes) would submit that show cause notice followed by three reminder notices were issued to the petitioner. Since the petitioner has not filed its reply, impugned order came to be passed.

7. In reply, the learned counsel for the petitioner would fairly submit that the petitioner is now ready and willing to pay 25% of the disputed tax liability made by the respondent in the event of providing an

opportunity to them to file their reply along with the required documents to substantiate their claim, for which, the learned Special Government Pleader (Taxes) has no serious objection.

8. Heard the learned counsel for the petitioner and the learned Special Government Pleader (Taxes) for the respondent and also perused the materials available on record.

9. In the present case, since the show cause notice was uploaded in the GST portal, the petitioner's staff have no knowledge regarding the usage of GST portal and hence could not inform the petitioner , due to which the petitioner could not file its reply.

10. Further, it appears 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 is passed in violation of principles of natural justice and it is just and necessary to provide an opportunity to the petitioner to establish their case on merits. In such

view of the matter, this Court is inclined to set aside the impugned order dated 16.04.2024 passed by the Respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 16.04.2024 is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay 25% of disputed tax to the respondents within a period of ***four weeks*** from the date of receipt of a copy of this order and the setting aside of the impugned order will take effect from the date of payment of the said amount.

(ii) The petitioner shall file their additional 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 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

KRISHNAN RAMASAMY.J.,

arr

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

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

21.02.2025

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

To

The Deputy State Tax Officer
Ganapathy Assessment Circle, Ct Buildings,
Dr.Balasundaram Road,
Coimbatore-641 018

W.P.No.6101 of 2025