IN THE HIGH COURT OF JUDICATURE AT MADRAS

**Dated : 03.03.2025**

Coram

**The Hon'ble Mr.Justice Krishnan Ramasamy**

**W.P.No.5110 of 2025**
**and**
**W.M.P.Nos.5672 and 5673 of 2025**

Mrs.Rajendran Kalaivani ...Petitioner

..Vs..

The Deputy Commercial Tax Officer,
Office of the Deputy Commercial Tax Officer,
Vangaram Circle, Poonamallee Zone,
No.4/109, 4th Floor,
Integrated State Tax Offices Building,
Trunk Road, Varadharajapuram,
Nazarathpet, Chennai 600123. ... Respondent

**Prayer:** This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records of the Impugned Order Ref-No.ZD330824146580F dated 19.08.2024 passed by the Respondent and quash the said Impugned Order consequentially direct the Respondent to provide the Petitioner with an opportunity of fresh hearing.

For Petitioner : Mr.S Sathish Kumar

For Respondent : Mr.T.N.C.Kaushik,
Additional Government Pleader (T)

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**ORDER**

The challenge in this writ petition is to the order dated 19.08.2024 passed by the Respondent and to quash the same.

2. Mr.T.N.C.Kaushik, learned Additional Government Pleader(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 show cause notice dated 22.05.2024 followed by reminder letters dated 16.07.2024, 25.07.2024 and 19.08.2024 were issued to the petitioner. Since the same were uploaded in the GST Portal, the petitioner was not aware of the same and hence failed to submit its reply. In the meantime, the respondent passed the impugned order dated 19.08.2024, demanding tax along with interest and penalty for the Assessment Year 2019-2020.

5. Further, he would submit that impugned assessment 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 that apart time for filing appeal as against the impugned order also got expired. Hence he prays to set aside the impugned order.

6. The learned Additional Government Pleader (Taxes) appearing for the Respondent submitted that though the Show Cause Notice followed by reminder notices were issued to the Petitioner, by uploading the same in the GST portal, the Petitioner failed to submit its reply and therefore impugned assessment order came 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 Additional Government Pleader (Taxes) appearing for the Respondent has no serious objection.

8. Heard the learned counsel for the petitioner and the learned Additional 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 was not aware of the same and therefore failed to submit its reply.

10. Further, it appears that opportunity of personal hearing was not granted to the Petitioner prior to passing of impugned order. Hence, this Court is of the view that the impugned order passed is 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 assessment order dated 19.08.2024 passed by the Respondent. Accordingly, 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 as volunteered by the Petitioner, they shall pay 25% of disputed tax 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 order 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 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.

11. Accordingly, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

**03.03.2025**

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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**Krishnan Ramasamy,J.,**

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To

The Deputy Commercial Tax Officer,
Office of the Deputy Commercial Tax Officer,
Vangaram Circle, Poonamallee Zone,
No.4/109, 4th Floor,
Integrated State Tax Offices Building,
Trunk Road, Varadharajapuram,
Nazarathpet, Chennai 600123.

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