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IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 19.02.2025
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The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.5619 of 2025
and
W.M.P.Nos.6201 & 6205 of 2025

M/s. Shiroi Energy LLP
rep. by its Partner,
Mr.K.S.Vinodh ...Petitioner

Vs.

The Assistant Commissioner (ST) (FAC)
Adyar Assessment Circle
Integrated Commercial Taxes and Registration Building
Nandhanam, Chennai – 600 035. ...Respondent

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for records from the file of the respondent and to quash the impugned assessment order dated 20.08.2024, bearing No.33ACPFS4398J1ZE/2019-20 passed by the respondent.

For Petitioner : Mr.J.Ashish

For Respondent : Mr.C.Harsha Raj
Special Government Pleader (T)

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Order

Heard Mr.J.Ashish, learned counsel appearing for the petitioner and Mr.C.Harsha Raj, learned Special Government Pleader, 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 assessment order passed by the respondent dated 20.08.2024.

3. The learned counsel for the petitioner would submit that all the show cause notice/reminders/personal hearing notice, which culminated in the impugned order, were merely uploaded in the GST Portal under the "View Additional Tab", hence, the same were unnoticed by the petitioner, therefore, the petitioner could not file reply nor appear for the personal hearing and only when the petitioner received a phone call from the respondent-GST Department with regard to remittance of tax/interest/penalty, the petitioner came to know of the impugned order.

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3.1 Therefore, the learned counsel would submit that the impugned order suffers from violation of principles of natural justice and is liable to be aside, as the petitioner has not been heard before passing the impugned order. Further, it is stated that the petitioner is also ready and willing to pay 25%of the disputed tax, in the event, this Court is inclined to set aside the impugned order, and thus, prays for appropriate orders.

4. The learned Special Government Pleader (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

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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, which the petitioner was not aware, and only when the respondent-GST Department called the petitioner through phone asking the petitioner to remit tax/interest/penalty, 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 Special Government Pleader (T) is also agreable, this Court passes the following orders/directions:-

i) The impugned order dated 20.08.2024 passed by the respondent is set aside.

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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 two 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.

19.02.2025

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Integrated Commercial Taxes and Registration Building
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Krishnan Ramasamy,J.,

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