IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.02.2025
Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.5624 of 2025
and
W.M.P.Nos.6207 & 6208 of 2025

Shri. Mahesh Kumar Agarwal
Proprietor of M/s. Thirumalai Steels ...Petitioner

Vs.

The Assistant Commissioner (ST)
Cholavaram Assessment Circle,
Room No.109, 1st Floor,
Integrated Commercial Taxes Building
Elephant Gate, Wall Tax Road,
Chennai – 600 003. ...Respondents

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for records pertaining to the impugned order dated 03.04.2024 having reference No.ZD330424020377P passed by the respondent and to quash the same as arbitrary.

For Petitioner : Mr.L.Gokulraj
For Respondent : Mrs.K.Vasanthamala
Government Advocate (T)

Order

Heard Mr.L.Gokulraj, learned counsel appearing for the petitioner and Mrs.K.Vasanthamala, 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 passed by the respondent dated 03.04.2024 and to quash the same as arbitrary.

3. The learned counsel for the petitioner would submit that all the notice/show cause notice/personal hearing notice, which culminated in the impugned order, were merely uploaded in the GST Portal under the "View Additional Notices/Orders Tab", hence, the same were unnoticed by the petitioner, therefore, the petitioner could not file reply nor appear for the personal hearing, however, without hearing the petitioner, the impugned order came to be passed.

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 has already deposited entire disputed tax, hence, prayed this Court to set aside the impugned order and remand the matter back to the Authority for fresh consideration.

4. The learned Government Advocate (T) for the respondent fairly submitted that since the petitioner has already paid the entire disputed tax, the prayer sought for by the petitioner may be considered.

5. Taking into consideration of the submissions made on either side and perusal of record, there is no dispute on the aspect that notices, which culminated in the impugned order were merely uploaded in the GST portal, which were unnoticed by the petitioner as the petitioner had no occasion to view the Portal then and there, hence, the petitioner could not file reply or appear for the personal hearing. However, the respondent passed the impugned order without even affording any opportunity of hearing to the petitioner, which is nothing but an ex parte order, as the same suffers from violation of principles of natural justice.

6. 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, taking into consideration of the fact that the entire tax liability has been discharged by the petitioner, this Court is inclined to pass/issue the following orders/directions:-

i) The impugned order dated 03.04.2024 passed by the respondent is set aside.

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

iii) Taking into consideration of the fact that entire tax liability has been discharged by the petitioner, no condition is imposed on the petitioner for setting aside the impugned order.

iv) 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 after verification of the submission made by the petitioner that the entire tax liability has already been discharged by them, 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

sd

Index : yes/no
Neutral Citation : yes/no

To

The Assistant Commissioner (ST)
Cholavaram Assessment Circle,
Room No.109, 1st Floor,
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Elephant Gate, Wall Tax Road,
Chennai – 600 003.

Krishnan Ramasamy,J.,

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