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W.P.No.5563 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.02.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.5563 of 2025

and

W.M.P.Nos. 6140 & 6141 of 2025

M/s.Vishaha Traders,
rep. by its Partner,
S.Eswaran

...Petitioner

Vs.

The Deputy State Tax Officer,
Office of the Deputy Commercial Tax Officer
Sathyamangalam, Erode.

...Respondent

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 of the impugned proceedings of the respondent herein in GSTIN : 33AAGFV4011L1ZA/2017-18 dated 29.12.2023, along with the consequential summary order in Ref.No.ZD331223254324T dated 29.12.2023 for the tax period July, 2017-March, 2018 and to quash the same as arbitrary.



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For Petitioner : Mr.S.Rajasekar

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

Order

Heard Mr.S.Rajasekar, learned counsel appearing for the petitioner and Mr.T.N.C.Kaushik, learned Additional Government Pleader (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 29.12.2023, along with the consequential summary order dated 29.12.2023 for the tax period July, 2017-March, 2018 and to quash the same.

3. The learned counsel for the petitioner would submit that all the show cause notice/personal hearing notice, which culminated in the impugned order, were merely uploaded in the GST Portal under the "View



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Additional 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. However, it is stated that the petitioner is also ready and willing to deposit 25% of the disputed tax, in the event, this Court is inclined to set aside the impugned order and remands the matter back to the Authority for fresh consideration, and thus, prays for appropriate orders.

4. The learned Additional 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.



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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, which the petitioner was not aware. 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 Additional Government Pleader (T) is also agreeable, this Court passes the following orders/directions:-



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i) The impugned order passed by the respondent dated 29.12.2023, along with the consequential summary order dated 29.12.2023 are 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 come 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.



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7. In the result, the Writ Petition is allowed on the aforesaid terms.

No costs. Consequently, connected Miscellaneous Petitions are closed.

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Index : yes/no

Neutral Citation : yes/no

To
The Deputy State Tax Officer,
Office of the Deputy Commercial Tax Officer
Sathyamangalam, Erode.



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Krishnan Ramasamy,J.,

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