IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2025
Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.6822 of 2025
and
W.M.P.Nos.7514 & 7518 of 2025

Ms Innotek Plastics
represented by its Partner
T K Purushothaman Shed
No.4 Survey No.418/1 Padasala Road,
PKM Cross Street, Mel Ayanambakkam,
Chennai 600 095. ...Petitioner

Vs

THE ASSISTANT COMMISSIONER
ST (FAC) Nolambur assessment circle
Nandanam, Chennai 600 035. ...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 the records leading to the issuance of assessment order bearing reference GSTIN 33AAFFI5957F1ZC 2019-20 dated 30.07.2024 passed by the Respondent herein and quash the same and pass.

For Petitioner : M/s.B. Chandrika

For Respondent : Mrs.K.Vasanthamala
Government Advocate (T)

Order

Heard M/s.B. Chandrika 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 assessment order passed by the respondent dated 30.07.2024 and to quash the same and pass

3. The learned counsel for the petitioner would submit that the show cause notice/personal hearing notice, which culminated in the impugned order, were merely uploaded in the GST Portal under the "View Additional Notices Tab", and the same were unnoticed by the petitioner's Accountant, whom the petitioner has engaged for filing their returns, 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 in pursuance of the impugned order, the respondent has also initiated recovery proceedings against the petitioner, whereby, 50% of the disputed tax has already been recovered from the petitioner through electronic credit ledger, hence, he prays for setting aside the impugned order and remanding the matter back to the Authority for fresh consideration.

4. The learned Government Advocate (T) for the respondent fairly submitted that since it is stated by the learned counsel for the petitioner that already 50% of the disputed tax has been recovered from the petitioner's account, subject to the verification of the said statement, 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's Accountant and the petitioner also failed to notice the same, as he is inept in computer knowledge, 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, considering the fact that 50% of the disputed tax has already been recovered from the petitioner, this Court is inclined to pass the following orders/directions:-

i) The impugned order passed by the respondent dated 30.07.2024 is set aside.

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

iii) The petitioner is directed to file a reply along with supportive documents within a period of two weeks from the date of receipt of a copy of this order.

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.

27.02.2025

sd
Index : yes/no
Neutral Citation : yes/no

To
THE ASSISTANT COMMISSIONER
ST (FAC) Nolambur assessment circle
Nandanam, Chennai 600 035.

Krishnan Ramasamy,J.,

sd

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