IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.02.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.5799 of 2025
and
W.M.P.Nos.6380 & 6382 of 2025

M/s Elan Professional Appliances Private Limited
rep by its Authorized Signatory Mr Ranjan Jain SF no.
12,13, Maruti Ware Housing , Arakkambakkam Road
Via, Veerapuram , Avadi IAF, Chennai -600 055

... Petitioner

Vs.

1.The Assistant Commissioner (ST),
Vanagaram Assessment Circle,
No.4/109, 2nd Floor,
Nazarathpettai, Chennai 600 123.

2.The Commercial Tax Officer,
Vanagaram Assessment Circle,
Nazarathpettai, Poonamallee,
Chennai 600 123.

... Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the impugned proceedings made in GSTIN: 33AACCE1748C1Z6/2019-20 dated 05.08.2024 and consequential rejection order in rectification petition made in Ref.No.ZD330125298116H dated 31.01.2025 passed by the 1st respondent and 2nd respondent herein respectively and quash the same as illegal, arbitrary and violation of natural justice.

For Petitioner : Mr.Manoharan S.Sundaram

For Respondent : Mr.C.Harsha Raj,
Special Government Pleader

ORDER

This writ petition has been filed challenging the impugned assessment order dated 05.08.2024 and the impugned rejection order dated 31.01.2025 passed by the respondents.

2. The learned counsel appearing for the petitioner would submit that in the present case, the notice in Form GST DRC-01 was issued by the respondents on 30.05.2024, for which, the reply was filed by the petitioner on 12.06.2024. However, the impugned assessment order was passed by the respondent as if no reply was filed by the petitioner. Hence, it is clear that the reply filed by the petitioner was not at all

considered by the respondent. Under these circumstances, the rectification application has been filed by the petitioner, however, the same was rejected vide the impugned rejection order dated 31.01.2025 on the ground that the rectification application will be considered only when there is any error apparent on the original order. Hence, this writ petition has been filed.

3. In reply, the learned Special Government Pleader, appearing for the respondents would fairly submit that in this case, though the reply was filed by the petitioner, the same was not at all considered by the respondent while passing the impugned assessment order.

4. Further, he would submit that the rectification application will only be considered if there is any error apparent on the original order. In such case, he requests this Court to set aside both the impugned assessment order and the impugned rejection order. Since only the Assessing Officer can consider the reply filed by the petitioner, he requests this Court to remand this matter back to the Assessing Officer.

5. Heard the learned Senior counsel for the petitioner and the learned Special Government Pleader appearing for the respondents and also perused the entire materials available on record.

6. In this case, it is clear that though the reply was filed by the petitioner, the same was not considered by the Assessing Officer while passing the impugned assessment order. Hence, a rectification application was filed by the petitioner and the same was also dismissed vide the impugned rejection order.

7. In this case, the impugned assessment order was passed without considering the reply filed by the petitioner, which is a clear violation of principles of natural justice and hence, the said assessment order is liable to be set aside. However, as contended by the learned Additional Government Pleader, the said aspect cannot be considered in a rectification application since, a rectification application will be entertained only if there is any error apparent on the original order.

When such being the case, this Court feels that it would be appropriate to set aside both the original assessment order as well as the rectification order passed by the respondents.

8. Further, since the reply filed by the petitioner will only be considered by the Assessing Officer, this Court is inclined to remand this matter back to the Assessing Officer. Accordingly, this Court passes the following order:

i) The impugned assessment order dated 05.08.2024 and the impugned rejection order dated 31.01.2025 are hereby set aside.

(ii) The Assessing Officer is directed to consider the reply filed by the petitioner, along with all the relevant documents, 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.

9. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

20.02.2025

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
nsa

To

1.The Assistant Commissioner (ST),
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No.4/109, 2nd Floor,
Nazarathpettai, Chennai 600 123.

2.The Commercial Tax Officer,
Vanagaram Assessment Circle,
Nazarathpettai, Poonamallee,
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KRISHNAN RAMASAMY.J.,

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