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

W.P.No.5621 of 2025
and
W.M.P.Nos.6202 & 6204 of 2025

Tvl. Sarvesh Trucks and Motors Pvt. Ltd.,
rep. by its Managing Director,
Mr.B.Gnanaprakash.

...Petitioner

Vs.

The Deputy State Tax Officer -2
No.4 Barathiyar Salai, Vellore Rural,
Fort Round Road, Vellore – 632 001. ...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 respondent's order dated 27.08.2024, with Ref.No.GSTIN / 33AAUCS1942E1ZA/2019-20 and to quash the same.

For Petitioner : Mr.Adithya Reddy
For Respondent : Ms..Amirta Poonkodi Dinakaran
Government Advocate (T)

Order

Heard Mr.Adithya Reddy, learned counsel appearing for the petitioner and Ms.Amirta Poonkodi Dinakaran, 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 27.08.2024 and to quash the same.

3. The learned counsel for the petitioner would submit that the impugned order is an ex parte order, as the petitioner has not been heard before passing the order, however, he fairly submitted that though reply has been filed, the same is not a detailed one and despite personal hearing was granted, due to unavoidable circumstances, the petitioner could not appear for the personal hearing, therefore, 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 Government Advocate (T) for the respondent it is not case of ex parte order, as, the respondent has called for the petitioner's reply and provided an opportunity of personal hearing, and since the petitioner failed to appear for the personal hearing, the impugned order came to be passed, therefore, there is no fault on the decision making process adopted by the respondent. However, she fairly submitted that since the petitioner has lost their opportunity to putforth their case before the respondent/Assessing Officer, because of their failure to appear for the personal hearing, instead of relegating the petitioner to agitate the issue before the respondent/Assessing Officer onceagain, they may be granted liberty to agitate the issue before the Appellate Authority,

5. I have given due considerations to the submissions made on either side and perused the materials available on record.

6. In the case on hand, there is no dispute on the aspect that the petitioner, on receipt of the show cause notice, filed a reply, which is a formal one, as the reply filed by the petitioner is not a detailed reply and further, despite of the fact that personal hearing opportunity has been afforded to the petitioner, the petitioner, for the reasons best known to them failed to appear.

6.1 Thus, it is clear that, the petitioner, on their own, invited the impugned order, hence, there is no fault on the decision making process adopted by the respondent in passing the impugned order, therefore, this Court is not inclined to set aside the impugned order and relegate the petitioner to approach the respondent/Assessing Officer onceagain to substantiate their case. However, considering the fact that the petitioner has lost one opportunity to putforth their contentions before the respondent/Assessing Officer, this Court is of the view that the better recourse available to the petitioner is to approach the Appellate Authority by way of an Appeal to agitate their rights, but the same is subject to the payment of additional 5% of the disputed tax, apart from making pre-conditional deposit of 10% for filing Appeal.

7. Accordingly, the Writ Petition is dismissed. However, the petitioner is at liberty to approach the Appellate Authority challenging the order passed by the respondent dated 27.08.2024 by complying with pre-conditional deposit of 10% in filing Appeal, and in addition to the same, the petitioner is directed to deposit 5% of the disputed tax within a period of 30 days from the date of receipt of a copy of this order. It is needless to state, till such time, the respondent/Assessing Officer shall not precipitate the issue by initiating any recovery proceedings against the petitioner and the same shall be kept in abeyance till the issue is seized of by the Appellate Authority. No costs. Consequently, connected Miscellaneous Petitions are closed.

19.02.2025

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

To

The Deputy State Tax Officer -2
No.4 Barathiyar Salai, Vellore Rural,
Fort Round Road, Vellore – 632 001.

Krishnan Ramasamy,J.,

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