IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.02.2025

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.5922 of 2025 &
W.M.P.Nos.6516 and 6519 of 2025

M/s.Srinidhi Category II Alternative Investment Fund,
represented by its Authorised Signatory Ms.Nandhini,
No.17/4, Krishnasamy Avenue,
Mylapore, Chennai- 600 004. ... Petitioner

Vs.

The Assistant Commissioner (ST),
Valluvarkottam Assessment Circle,
6th Floor, PAJPM Building,
Greams Road, Chennai-600 006. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for records of the respondent in his proceedings in GSTIN/33AARTS3641J1Z3/2020-21, quash the order dated 28.11.2024 passed therein.

For Petitioner : Mr.P.V.Sudakar
For Respondent : Mrs.K.Vasanthamala
Government Advocate (Taxes)

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O R D E R

This writ petition has been filed by the petitioner challenging the order of the Respondent dated 28.11.2024 and to quash the same.

2. Mrs.K.Vasanthamala, learned Government Advocate (Taxes) takes notice on behalf of the respondent.

3. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

4. The learned counsel for the petitioner would submit that in the present case the respondent issued Show Cause Notice to the petitioner on 15.10.2024. Since the same was uploaded in the GST portal, the petitioner could not file its reply. Subsequently, impugned order dated 28.11.2024 came to be passed by the respondent demanding tax along with interest and penalty for the Assessment Year 2020-2021. The petitioner came to know of the impugned order as well as show cause notice belatedly.

5.Further, he would submit that impugned order came to be passed without affording an opportunity of hearing to the Petitioner and therefore the same is in violation of principles of natural justice and therefore prays to set aside the same.

6. On the other hand, the learned Government Advocate (Taxes) would submit that respondent issued show cause notice as well as reminder notice to the petitioner by uploading the same in the GST portal. Since, the petitioner has failed to file its reply, impugned order came to be passed.

7. In reply, the learned counsel for the petitioner would fairly submit that the petitioner is now ready and willing to pay 10% of the disputed tax liability made by the respondent in the event of providing an opportunity to them to file their reply along with the required documents to substantiate their claim, for which, the learned Government Advocate (Taxes) has no serious objection.

8. Heard the learned counsel for the petitioner and the learned

Government Advocate (Taxes) for the respondent and also perused the materials available on record.

9. In the present case, since the show cause notice as well as impugned order were uploaded in the GST portal, the petitioner was unaware of the same and hence could not file its reply.

10. Further, it appears that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Hence, this Court is of the view that the impugned order is passed in violation of principles of natural justice and it is just and necessary to provide an opportunity to the petitioner to establish their case on merits. In such view of the matter, this Court is inclined to set aside the impugned order dated 28.11.2024 passed by the Respondent. Accordingly, this Court passes the following order:-

> (i) The impugned order dated 28.11.2024 is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay 10% of disputed tax to the respondents within

a period of ***four weeks*** from the date of receipt of a copy of this order and the setting aside of the impugned order will take effect from the date of payment of the said amount.

(ii) The petitioner shall file their additional reply/objection along with the required documents, if any, within a period of two weeks thereafter.

(iii) On filing of such reply/objection by the petitioner, the respondent shall consider the same 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.

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

21.02.2025

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

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KRISHNAN RAMASAMY.J.,

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To

The Assistant Commissioner (ST),
Valluvarkottam Assessment Circle,
6th Floor, PAJPM Building,
Greams Road, Chennai-600 006.

W.P.No.5922 of 2025

21.02.2025