IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21-02-2025

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THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 6161 of 2025 and
WMP.Nos.6769 and 6770 of 2025

Ya Rahman Briyani
Represented by its Partner- Mohabillasha Hakkim,
4-584, Senthamil Nagar, Velachery Main Road,
Medavakkam,
Chennai 600100. Petitioner

..Vs..

The State Tax Officer
Office Of The Commercial Tax Officer,
Medavakkam Assessment Circle,
Chennai. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records of the impugned proceedings of the Respondent herein in GSTN 33AACFY2608N1Z0 / 2019-20 dated 26.08.2024 along with its consequential Summary Order in Ref. No. ZD3308242274297 dated 26.08.2024 for the Tax Period April 2019 - March 2020 and quash the same.

For Petitioner: Mr.S.Rajasekar
For Respondent: Mr.T.N.C.Kaushik, Additional Government Pleader (Taxes)

ORDER

This writ petition has been filed by the petitioner challenging the order of the Respondent dated 26.08.2024 along with consequential summary order dated 26.08.2024 for the Tax Period April 2019 - March 2020 and quash the same.

2. Mr.T.N.C.Kaushik, learned Additional Government Pleader (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 22.05.2023. Due to work pressure the petitioner's part-time consultant failed to take note of the same and hence the petitioner could not file its reply. Simultaneously, impugned assessment order along with summary order dated 26.08.2024 came to be passed demanding tax along with interest and penalty for the assessment year 2019-2020.

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 Additional Government Pleader (Taxes) would submit that show cause notice followed by three reminder notices were issued to the petitioner. Since the petitioner has not filed its reply, impugned order along with summary 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 25% 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 Additional Government Pleader (Taxes) has no serious objection.

8. Heard the learned counsel for the petitioner and the learned Additional Government Pleader (Taxes) for the respondent and also perused the materials available on record.

9. In the present case, since the part-time accountant of the petitioner have not taken note of the show cause notice, he failed to inform the same to the petitioner, due to which the petitioner 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 along with summary order dated 26.08.2024 passed by the Respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 26.08.2024 is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay 25% 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

KRISHNAN RAMASAMY.J.,

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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 petition are also closed.

21.02.2025

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

The State Tax Officer
Office Of The Commercial Tax Officer,
Medavakkam Assessment Circle,
Chennai.

W.P.No.6161 of 2025

14.10.2024