IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.02.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.6050 of 2025
and
W.M.P.Nos.6645 & 6647 of 2025

K.R.R. Super Market
Rep. by its Partner Ranjithkumar Ravichandran 33,
Punugeswarar North Street, Koranadu, Mayiladuthurai,
Nagapattinam, Tamil Nadu - 609 001 GSTIN -
33AAQFK4662C1ZD

... Petitioner

Vs.

The State Tax Officer FAC
O/o the commercial Tax officer Mayiladuthurai
Assessment circle Mailaduthurai,
Tamil Nadu

... 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 Respondent herein in its Impugned Order passed by the Respondent in GSTIN- 33AAQFK4662C1ZD/2018-2019 dated 08.07.2024 along with the Consequential Order U/s 74 of the CGST Act 2017 with the Ref. No.- ZD330724093215E dated 08.07.2024 for the Tax Period 2018-2019 and quash the same.

For Petitioner : Ms.R.Hemalatha

For Respondent : Mr.V.Prashanth Kiran,
Government Advocate

ORDER

This writ petition has been filed challenging the impugned order dated 08.07.2024 passed by the respondent.

2. Mr.V.Prashanth Kiran, learned Government Advocate, takes notice on behalf of the respondent. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that initially, an intimation notice was issued by the respondent on 20.02.2024, for which a reply dated 19.03.2024 has been filed by the petitioner seeking for adjournment of 15 days. However, without providing any time, the show cause notice was issued by the respondent on 08.04.2024 and thereafter, 3 reminder notices were issued.

Subsequently, the impugned order came to be passed by the respondent on 08.07.2024. Hence, this petition has been filed.

4. Further, he would submit that the petitioner is willing to pay 25% of the disputed tax amount to the respondent. Hence, he requests this Court to grant an opportunity to the petitioner to present their case before the respondent by setting aside the impugned orders.

5. On the other hand, the learned Government Advocate appearing for the respondents would submit that the respondents had issued the show cause notice and reminder notices to the petitioner. But the petitioner failed to avail the said opportunity. Further, he has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, he requested this Court to remit the matter back to the respondent, subject to the payment of 25% of the disputed tax amount by the petitioner.

6. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondent and also perused the materials available on record.

7. In the cases on hand, it is clear 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 was passed in violation of principles of natural justice since it is just and necessary to provide an opportunity to the petitioner to establish their case on merits.

8. Further, it was submitted by the learned counsel for the petitioner that the petitioner is willing to pay 25% of the disputed tax amount to the respondent. In such view of the matter, this Court is inclined to set aside the impugned order dated 08.07.2024 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 08.07.2024 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 amount to the respondents within a period of four weeks from today (20.02.2025) 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 reply/objection along with the required documents, if any, within a period of three weeks from the date of receipt of copy of this order.

(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.

8. 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

The State Tax Officer FAC
O/o the commercial Tax officer Mayiladuthurai
Assessment circle Mailaduthurai,
Tamil Nadu

KRISHNAN RAMASAMY.J.,

nsa

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