IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.03.2025

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THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.6262 of 2025
and W.M.P.Nos.6888 & 6895 of 2025

M/s.US Electricals,
Rep. by its Proprietor Sundaresan Umashankar,
New No.22, Old No.17C, 1st Cross Street,
Samiyar Madam, Vyasarpadi,
Chennai – 600 039. .. Petitioner

Vs.

Assistant Commissioner (ST) (FAC),
Washermanpet Assessment Circle,
O/o. The Commercial Taxes Department,
No.32, Integrated Commercial Taxes Building,
Elephant Gate, Chennai – 600 003. .. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue Writ of Certiorarified Mandamus, calling for the records of the respondent in the impugned order in GST No.33AAAPU7928F1ZL/2017-18 dated 05.02.2025 and quash the same and consequently, direct the respondent to reconsider the matter afresh.

For Petitioner : Mr.Jitendra Kumar P

For Respondent : Mr.T.N.C.Kaushik
Additional Government Pleader (T)

ORDER

This Writ Petition has been filed by the petitioner seeking to call for the records of the respondent in the impugned order in GST No.33AAAPU7928F1ZL/2017-18 dated 05.02.2025 and quash the same and consequently, direct the respondent to reconsider the matter afresh.

2.Learned counsel for the petitioner would submit that the respondent had issued show cause notice under Section 73 of the Tamil Nadu Goods and Services Tax Act, 2017 in the online portal proposing for demand of tax on the ground that the turnover declared in GSTR 3B is less in comparison with the TDS deducted as per Form 26AS of the Income Act, 1961 and called for documents for verification of the transaction. Since the petitioner had no occasion to view the GST portal, he was not aware of the issuance of show cause notice dated 14.08.2025. When the respondent informed the petitioner over phone regarding the pending show cause notice dated 14.08.2023 in the online portal, the petitioner came to know about the show cause notice and thereafter, the petitioner filed reply dated 28.12.2023 stating that the difference in turnover between 26AS and GSTR 3B is due to receipt of payments against work completed in Pre-GST period along with all the documents as called for in the show cause notice dated 14.08.2023 and also sought for personal hearing.

3.He would further submit that the respondent without considering the reply filed by the petitioner and without providing personal hearing opportunity has passed the assessment order on the every same day as the reply filed by the petitioner. Thereafter, the petitioner filed the rectification application which was also came to be rejected on 05.02.2025 and the entire disputed tax liability has been recovered by the respondent by debiting the entire balance available in the e-credit Ledger of the petitioner. Hence, the present writ petition has been filed.

4.Mr.T.N.C.Kaushik, learned Additional Government Pleader appearing for the respondent would fairly submit that without providing an opportunity of personal hearing, the assessment order dated 28.12.2023 has been passed and if the Court feels it appropriate and it is a fit case for re-consideration, this Court may consider and pass orders.

5.Heard the learned counsel for the petitioner as well the learned Additional Government Pleader appearing for the respondent and perused the materials available on record.

6.Considering the submissions made by the learned counsel for the petitioner as well as the learned Additional Government Pleader appearing for the respondent, it is evident that though the reply has been filed by the petitioner, without taking into consideration of the reply filed by the petitioner and without providing an opportunity of personal hearing, the assessment order has been passed, which is totally against the provision under Section 75(4) of the Central Goods and Services Tax Act, 2017.

7.Thus, in such circumstances, this Court is of the view that the assessment order came to be passed without affording opportunity of personal hearing to the petitioner to establish their case, thereby violating the principles of natural justice and that it is just and necessary to provide an opportunity to the petitioner to establish their case on merits and in accordance with law.

8.For the reasons stated above, this Court is inclined to set aside the impugned order dated 05.02.2025 passed by the respondent. Accordingly, this Court passes the following order:-

> (i)The impugned order in GST No.33AAAPU7928F1ZL/2017-18 dated 05.02.2025 is hereby set aside.
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> (ii)The respondent shall consider the reply/objection filed by the petitioner and fix a date for 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, preferable within a period of three weeks from the date of receipt of a copy of this order.

9.With the above directions, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

17.03.2025

rst

Index : Yes/No
Internet: Yes/No
Speaking/Non-Speaking Order

To:

Assistant Commissioner (ST) (FAC),
Washermanpet Assessment Circle,
O/o. The Commercial Taxes Department,
No.32, Integrated Commercial Taxes Building,
Elephant Gate, Chennai – 600 003.

KRISHNAN RAMASAMY, J.

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