IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.02.2025

CORAM

THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.6315 of 2025
and W.M.P.Nos.6984 & 6949 of 2025

Jain Medicals,
Represented by its Partner,
Thiruvelu Murugesan,
No.63/7, Shanmugam Road, West Tambaram,
Chennai – 600 045. .. Petitioner

Vs.

The Assistant Commissioner, (ST), (FAC),
Tambaram Assessment Circle,
Chennai North Division,
Room No.342, 3rd Floor,
Integrated Building for Commercial Tax &
Registration Department, (South Tower),
Nandanam, Chennai – 600 035. .. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue Writ of Certiorarified Mandamus, calling for the respondent demand order made in No.ZD330824299052A dated 30.08.2024 and quash the same and consequently direct the respondent to give an opportunity of personal hearing.

For Petitioner : Mr.P.Suresh Babu

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 respondent demand order made in No.ZD330824299052A dated 30.08.2024 and quash the same and consequently direct the respondent to give an opportunity of personal hearing.

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.Learned counsel appearing for the petitioner would submit that, the respondent uploaded the show cause notice dated 31.05.2024 in the GST portal, calling for objections or reply. The petitioner vide reply dated

13.06.2024, sought three months time to collect the bills, since the issue related to the assessment year 2019-2020. Thereafter, the petitioner vide reply dated 27.08.2024, requested another one month time for filing his objections. However, the respondent passed the impugned order dated 30.08.2024. Since the impugned order dated 30.08.2024 was uploaded in the view additional notices column, in the GST portal and no physical copy of the impugned order was served to the petitioner, he had no occasion to view the same. He would further submit that since the petitioner was aware of the impugned order only in the month of January 2025, the petitioner could not file the appeal in time. Therefore, he would submit that the petitioner is ready and willing to pay 25% of the disputed tax demand in respect of the impugned assessment period and prayed to set aside the impugned order directing the respondent to permit the petitioner to file their reply and provide an opportunity of personal hearing so that the petitioner would be able to substantiate their case.

5.Learned Additional Government Pleader appearing for the respondent would submit that as per the voluntary submissions made by the learned counsel for the petitioner, subject to the deposit of 25% of the disputed tax demand by the petitioner in respect of the impugned assessment period, if the Court feels it appropriate and it is a fit case for re-consideration, this Court may consider and pass orders.

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

7.Considering the above submissions made by the learned counsel on either side and upon perusal of the materials, it is evident that the impugned show cause notices were issued through the GST Portal Tab. According to the petitioner, the petitioner was not aware of the issuance of the impugned order since physical copy of the said impugned order was not furnished to them. Due to which, they lost the time for filing appeal and therefore, request this Court to set aside the impugned order and remand the matter back for re-consideration.

8.Thus, in such circumstances, this Court is of the view that the impugned 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.

9.For the reasons stated above, this Court is inclined to set aside the impugned order dated 30.08.2024 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The order impugned herein is set aside on condition that the petitioner deposits 25% of the disputed tax amount in respect of the impugned assessment period, as agreed by the petitioner, within a period of four weeks from the date of receipt of a copy of this order.

(ii) The petitioner shall file their 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.

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

24.02.2025

rst

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

To:

The Assistant Commissioner, (ST), (FAC),
Tambaram Assessment Circle,
Chennai North Division,
Room No.342, 3rd Floor,
Integrated Building for Commercial Tax & Registration Department, (South Tower),
Nandanam, Chennai – 600 035.

KRISHNAN RAMASAMY, J.

rst

W.P.No.6315 of 2025
and W.M.P.Nos.6984 & 6949 of 2025

24.02.2025