WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2025
Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.6720 of 2025
and
W.M.P.Nos.7377 & 7378 of 2025

Exim Ink Co.
rep. By its Partner, R.Valliammai ...Petitioner

Vs

The Commercial Tax Officer,
Thiruvanmiyur Assessment Circle,
No.242, Integrated Commercial Taxes
and Registration Building,
South Tower, Nandanam,
Chennai – 600 035. ...Respondent

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for records relating to the impugned order dated 20.08.2024 for the FY 2019-20 in Ref.No.ZD330824173278 passed by the respondent and to quash the same as arbitrary.

https://www.mhc.tn.gov.in/judis

WEB COPY

For Petitioner : M/s.N.Karthika

For Respondent : Mrs.K.Vasanthamala
Government Advocate (T)

Order

Heard M/s.N.Karthika, learned counsel appearing for the petitioner and Mrs.K.Vasanthamala learned Government Advocate (T) who takes notice on behalf of the respondent. With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

2. The challenge in this Writ Petition is to the order passed by the respondent dated 20.08.2024 for the FY 2019-20 and to quash the same.

3. The learned counsel for the petitioner would submit that the respondent issued a show cause notice in Form GST DRC-01 dated 23.05.2024, to which, the petitioner filed a detailed reply dated 26.07.2024 along with supportive documents, however, the respondent, without affording an opportunity of hearing to the petitioner and without providing any reasons for rejection of the reply/objections, passed the impugned order

https://www.mhc.tn.gov.in/judis

WEB COPY

in a single-line stating that the documents produced by the petitioner were not valid documents and the reply filed by the petitioner was not acceptable. Therefore, the learned counsel assailed the impugned order by contending the same to be a cryptic and non-speaking order and is liable to be set aside.

4. The learned Government Advocate (T) for the respondent fairly accepted that no personal hearing opportunity was granted to the petitioner before passing the impugned order, hence, submitted that appropriate orders may be passed.

5. I have given due considerations to the submissions made on either side and perused the materials available on record.

6. The respondent issued a show cause notice in Form GST DRC-01 dated 23.05.2024, which was followed by three reminders, dated 26.06.2024, 06.07.2024 and 22.07.2024. The petitioner, on receipt of such notices, filed a detailed reply dated 26.07.2024 along with supportive documents. Thereafter, the respondent ought to have called upon the

https://www.mhc.tn.gov.in/judis

WEB COPY

petitioner to appear for the personal hearing, instead, the respondent passed a cryptic order, by merely stating that the documents filed by the petitioner were not valid and the reply was not acceptable.

6.1 Therefore, as rightly pointed out by the learned counsel for the petitioner the impugned order passed by the respondent is a non-speaking order and suffers from violation of principles of natural justice. When the assesseees are filing reply/objection, it is the bounden duty of the Assessing Officer to give reasons for rejection of such reply and without rendering any findings with regard to such rejection, if any order is passed by the respondent, the same cannot deemed to be a speaking order.

6.2 In the present case, on perusal of the impugned order, it is seen that the respondent-Department has made a vague statement that **"taxpayer's (petitioner) has not produced valid documentary evidence. Hence, the taxpayer reply was not acceptable".** In what way, the reply/objections made by the petitioner is not acceptable, in what manner, does the respondent is disagreeable to the points raised by the petitioner in

https://www.mhc.tn.gov.in/judis

WEB COPY

their reply/objection, and how come the reply/objections filed by the petitioner is not acceptable has not been set out clearly by the respondent, rather, the respondent has passed the impugned order, which is nothing but verbatim reproduction of the reply filed by the petitioner, and finally, in a single line, stated that the reply was not acceptable and the documents filed by the petitioner were not valid documents, which per se shows the non-application of mind on the part of the respondent in passing such order. Further, before passing the impugned order, the petitioner has not been afforded with any opportunity of personal hearing.

6.3 Therefore, this Court has no hesitation to hold that the impugned order passed by the respondent is a non-speaking order and suffers from violation of principles of natural justice. Accordingly, this Court pass the following orders/directions:-

i) The impugned order passed by the respondent dated 20.08.2024 is set aside.

https://www.mhc.tn.gov.in/judis

WEB COPY

ii) Consequently, the matter is remanded to the respondent for fresh consideration.

iii) In the event, the petitioner intends to file any additional reply, the same shall be filed within a period of two weeks from the date of receipt of a copy of this order.

iv) Thereupon, the respondent is directed to consider the reply already filed by the petitioner dated 26.07.2024 and additional reply, if any filed and shall issue a clear 14 days notice affording an opportunity of personal hearing to the petitioner and shall decide the matter in accordance with law.

7. In the result, the Writ Petition is allowed on the aforesaid terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

27.02.2025

sd

https://www.mhc.tn.gov.in/judis

WEB COPY

To

The Commercial Tax Officer,
Thiruvanmiyur Assessment Circle,
No.242, Integrated Commercial Taxes
and Registration Building,
South Tower, Nandanam,
Chennai – 600 035.

https://www.mhc.tn.gov.in/judis

WEB COPY

Krishnan Ramasamy,J.,

sd

W.P.No.6720 of 2025

27.02.2025

https://www.mhc.tn.gov.in/judis