IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 27.02.2025
Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.6667 of 2025
and
W.M.P.Nos.7307 & 7308 of 2025

RAMANA ASSOCIATES
Represented by its Partner,
Mr V. HARIDOSS
No.13 A 1st Cross Street, Alamelumangapuram
Madipakkam Chennai 600 091 ..Petitioner

Vs.

The Deputy State Tax Officer
Formerly Known as Deputy Commercial Tax Officer
MADIPAKKAM, TAMBARAM
CHENGALPATTU,
NO. 223, 2ND FLOOR
INTEGRATED COMMERCIAL TAXES AND
REGISTRATION Department Building,
Anna Salai (Veterinary Hospital Backside)
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 Certiorarified Mandamus to call for records relating to the impugned in Reference No. ZD3312232074321/2017-18 dated 26.12.2023 passed by the respondent and quash the same as arbitrary.

For Petitioner : Mr.P.Bhuvanesh

For Respondent : Ms.Amirta Poonkodi Dinakaran
Government Advocate (T)

Order

Heard Mr.P.Bhuvanesh, learned counsel appearing for the petitioner and Ms.Amirta Poonkodi Dinakaran, 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 26.12.2023 and to quash the same.

3. The learned counsel for the petitioner would submit that all the show cause notice/personal hearing notice, which culminated in the impugned order, were merely uploaded in the GST Portal under the "View Additional Notices Tab", hence, the same were unnoticed by the petitioner, therefore, the petitioner could not file reply nor appear for the personal hearing, however, without hearing the petitioner, the impugned order came to be passed.

3.1 Therefore, the learned counsel would submit that the impugned order suffers from violation of principles of natural justice and is liable to be aside, as the petitioner has not been heard before passing the impugned order. Further, it is stated that the petitioner has already deposited 39% of the disputed tax, hence, prayed this Court to set aside the impugned order and remand the matter back to the Authority for fresh consideration.

4. The learned Government Advocate (T) for the respondent fairly submitted that since the petitioner has already deposited 39% of the disputed tax, subject to the verification of the same, the prayer sought for by the petitioner may be considered.

5. Taking into consideration of the submissions made on either side and perusal of record, there is no dispute on the aspect that notices, which culminated in the impugned order were merely uploaded in the GST portal, which were unnoticed by the petitioner as the petitioner had no occasion to view the Portal then and there, hence, the petitioner could not file reply or appear for the personal hearing. However, the respondent passed the impugned order without even affording any opportunity of hearing to the petitioner, which is nothing but an ex parte order, as the same suffers from violation of principles of natural justice.

6. Thus, once the order is passed in violation of principles of natural justice, this Court cannot impose any condition requiring the petitioner to make any deposit, however, taking into consideration of the fact that the petitioner has deposited 39% of the disputed tax, this Court is inclined to pass/issue the following orders/directions:-

i) The impugned order passed by the respondent dated 26.12.2023 is set aside.

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

iii) Thereafter, the petitioner is directed to file a reply along with supportive documents 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 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

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Index : yes/no
Neutral Citation : yes/no

To
The Deputy State Tax Officer
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Krishnan Ramasamy,J.,

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