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

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.6716 of 2025
and
W.M.P.No.7374 of 2025

UTOO CABS LIMITED,
Represented by its Director Shri. S Manian
OLD No. 19 NEW No. 32 Cathedral Garden
Road Nungambakkam, Chennai-34. ...Petitioner

Vs.

Deputy State Tax Officer I
Valluvarkottam Assessment circle No.10
Palaniappa Maligai 4th floor Greams Road
Chennai 06. ...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 and to quash the same as arbitrary. calling for the records from the file of the respondent in Order in Reference No..ZD331223282781H passed under Section 73 of the TNGST Act 2017 for the period 2017-2018 dated 30.12.2023 and to quash the same as illegal and not in accordance with law and consequently direct the respondent to conduct fresh assessment proceedings after providing a reasonable opportunity of hearing to the Petitioner in accordance with law.

For Petitioner : M/s.Vandana Vyas

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

Order

Heard M/s.Vandana Vyas, learned counsel appearing for the petitioner and Mr.T.N.C.Kaushik learned Additional Government Pleader (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 under Section 73 of the TNGST Act 2017 for the period 2017-2018 dated 30.12.2023 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 in pursuance of the impugned order, the respondent has also initiated recovery proceedings against the petitioner, whereby, 100% of the disputed tax has already been recovered from the petitioner, hence, he prays for setting aside the impugned order and remanding the matter back to the Authority for fresh consideration.

4. The learned Government Advocate (T) for the respondent fairly submitted that since it is stated by the learned counsel for the petitioner that 100% of the disputed tax has already been recovered from the petitioner's account, subject to the verification of the said statement, 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, considering the fact that 100% of the disputed tax has already been recovered from the petitioner, this Court is inclined to pass the following orders/directions:-

i) The impugned order passed by the respondent dated 30.12.2023 is set aside.

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

iii) 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.

and

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
Deputy State Tax Officer I
Valluvarkottam Assessment circle No.10
Palaniappa Maligai 4th floor Greams Road
Chennai 600 006.

Krishnan Ramasamy,J.,

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