IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No.6661 of 2025 and
WMP.Nos.7296 and 7301 of 2025

Tvl.Vivek Traders LLP,
Rep. by its Partner Mr.Jithender Tatia,
No.320, 3, Valluvar Kottam High Road,
Nungambakkam, Chennai- 600 034. Petitioner

..Vs..

The Assistant Commissioner (ST).
Valluvarkottam Assessment Circle,
No.10, Palaniyappa Maligai, 4th Floor,
Greams Road, Chennai-600 006. Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records of the 2nd respondent in Form GST ADT-02 (Audit File No.35/2019-2020) dated 08.05.2024 and the consequential order passed by the 1st respondent in GSTIN:33ABOFA7480R1ZM/2019-20 dated 30.08.2024 along with DRC-07 and quash the same as illegal, erroneous and without jurisdiction apart from being in violation of natural justice

For Petitioner : Ms.R.Darshita
for Ms.C.Rekhakumari
For Respondent : Ms.AmirthapoonkodiDinakaran
Government Advocate (Taxes)

***

ORDER

This writ petition has been filed by the petitioner challenging the order of the respondent dated 15.11.2023 and to quash the same.

2. The learned counsel for the petitioner would submit that in the present case initially the respondent issued show cause notice dated 23.09.2023 to the petitioner. Since the same was uploaded in the "View additional notices and orders" column of the GST portal, the petitioner's part-time accountant, who was filing returns, did not cross-check the said column and therefore reply could not be filed. Subsequently, the respondent passed the impugned order dated 15.11.2023 demanding tax along with interest and penalty for the assessment year 2017-2018 and the said order was also uploaded in the aforesaid column of the GST portal. The petitioner came to know of the impugned order only after getting intimation from the respondent regarding payment of tax.

3.Further, she would submit that impugned order came to be passed without affording an opportunity of hearing to the Petitioner and therefore the same is passed in violation of principles of natural justice and therefore prays to set aside the same.

4. On the other hand, the learned Government Advocate (Taxes) would submit that the respondent issued show cause notice as well as the personal hearing notice to the petitioner. Since, the petitioner neither filed its reply nor appeared for personal hearing, impugned order came to be passed.

5. In reply, the learned counsel for the petitioner would fairly submit that the petitioner is now ready and willing to pay 25% of the disputed tax liability made by the respondents in the event of providing an opportunity to them to file their reply along with the required documents to substantiate their claim, for which, the learned Government Advocate (Taxes) has no serious objection.

6. Heard the learned counsel for the petitioner and the learned Government Advocate (Taxes) for the respondents and also perused the materials available on record.

7. In the case on hand, initially the respondent have issued show cause notice and the same was uploaded in the "view additional notices and orders". Therefore, the Petitioner's part-time accountant did not cross-check the said column and therefore reply could not be filed.

8. Further, it appears that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Hence, this Court is of the view that the impugned order is passed in violation of principles of natural justice and it is just and necessary to provide an opportunity to the petitioner to establish their case on merits. In such view of the matter, this Court is inclined to set aside the impugned order dated 15.11.2023 passed by the Respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 15.11.2023 is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay 25% of disputed tax to the respondent within a period of ***four weeks*** from the date of receipt of a copy of this order and the setting aside of the impugned order will take effect from the date of payment of the said amount.

(ii) The petitioner shall file their additional 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

KRISHNAN RAMASAMY.J

arr

law, after hearing the petitioner, as expeditiously as possible.

9. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

27.02.2025

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
arr

To
The Assistant Commissioner (ST).
Valluvarkottam Assessment Circle,
No.10, Palaniyappa Maligai, 4th Floor,
Greams Road, Chennai-600 006.

WP No. 6661 of 2025