IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.02.2025

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THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.6480 of 2025
and W.M.P.Nos.7125 & 7126 of 2025

Tvl.K.R.R Super Market,
Rep. by its Partner Ranjithkumar Ravichandran,
33, Punugeswarar North Street, Koranadu,
Mayiladuthurai, Nagapattinam,
Tamil Nadu – 609 001.
GSTIN:33AAQFK4662C1ZD .. Petitioner

Vs.

The State Tax Officer,
O/o. The Commercial Tax Officer,
Mayiladuthurai Assessment Circle,
Mayiladuthurai, Tamil Nadu. .. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue Writ of Certiorari, call for the records of the respondent herein in its impugned order passed by the respondent in GSTIN:33AAQFK4662C1ZD/2020-21 dated 30.09.2024 along with the consequential order U/s 74 of the CGST Act, 2017 with the Ref No.ZD330924196947L dated 30.09.2024 for the Tax period 2020-21 and quash the same.

For Petitioner : Mr.R.Hemalatha
For Respondent : Mr.V.Prashanth Kiran
Government Advocate (Taxes)

ORDER

This Writ Petition has been filed by the petitioner seeking to call for the records of the respondent herein in its impugned order passed by the respondent in GSTIN:33AAQFK4662C1ZD/2020-21 dated 30.09.2024 along with the consequential order U/s 74 of the CGST Act, 2017 with the Ref No.ZD330924196947L dated 30.09.2024 for the Tax period 2020-21 and quash the same.

2.Mr.V.Prashanth Kiran, learned Government Advocate (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, in the present case, the respondent issued Form GST ASMT-10 dated

03.03.2023, stating that there were certain discrepancies in ITC claimed by the petitioner in GSTR 2A and GSTR 3B. The petitioner submitted a reply dated 20.03.2024, imploring the respondent for an adjournment for a period of 15 days. As the petitioner suffers from ill health and unable to respond to the notice issued by the respondent. Subsequently, the respondent issued show cause notice dated 10.06.2024 imposing tax of Rs.95,420/-, along with penalty. Further, the show cause notice and the impugned order were uploaded in the GST portal and no physical copy was provided to the petitioner, which is violation of principle of natural justice. He would further 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 Government Advocate 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 Advocate 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, he was facing health issues and therefore, he was not able to follow up the notices issued by the respondent and since the show cause notice issued through the GST Portal and the original of the said show cause notice was not furnished to them, the petitioner was not aware about the same. It appears that three reminders were also sent to the petitioner through the GST portal. When such being the case, this Court feels that when the respondent did not receive any reply/response from the petitioner for the show causes notice and the reminders and when the statute provide alternative mode for sending notices, it is a bounden duty of the respondent to choose an other effective mode of service instead of uploading the notices and the reminders on the common portal again and again. When such exercise is being carried out, the petitioner would have not come with the plea before his Court that they have not received any notices.

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 30.09.2024 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 State Tax Officer,
O/o. The Commercial Tax Officer,
Mayiladuthurai Assessment Circle,
Mayiladuthurai, Tamil Nadu.

KRISHNAN RAMASAMY, J.

rst

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