IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.03.2025

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.8226 of 2025
and
W.M.P.Nos.9223 and 9224 of 2025

Mrs.Tamilselvan Santhi
Proprietor, Tvl. S K V Metal Roofings, No.267-7,
Sedapalayam Road, Sangolikuppam Village,
Cuddalore-607 002.

...Petitioner

..Vs..

Deputy Commercial Tax Officer,
Chidambaram-1, Cuddalore. ... Respondent

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records relating to the impugned order bearing Reference No.ZD330824117503M dated 14/08/2024, passed by the Respondent and to quash the same.

For Petitioner : Mr.T.R.Ramesh

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

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ORDER

The challenge in this writ petition is to the order dated 14.08.2024 passed by the Respondent and to quash the same.

2. Mr.T.N.C.Kaushik, learned Additional Government Pleader(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 time of admission stage itself.

4. The learned counsel for the petitioner submits that show cause notice dated 22.05.2024, for which the petitioner submitted its reply on 24.07.2024. The personal hearing notices were also issued to the petitioner and the same were uploaded in the GST Portal, which the petitioner was not aware of for the reason that the employee who was looking after the accounts of the petitioner's concern left the services of the petitioner. In the meantime, the respondent passed the impugned order dated 14.08.2024, demanding tax along with interest and penalty for the Assessment Year 2019-2020.

5. Further, he would submit that impugned assessment order came to

be passed without considering the reply filed by the petitioner and also without hearing the Petitioner and therefore the same is in violation of principles of natural justice Hence he prays to set aside the impugned order.

6. The learned Additional Government Pleader (Taxes) appearing for the Respondent submitted that though the Show Cause Notice followed by personal notices were issued to the Petitioner, by uploading the same in the GST portal, the petitioner failed to appear for personal hearing and since the petitioner had not filed the detailed reply along with supporting documents, assessment order came to be passed.

7. 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 respondent 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 Additional Government Pleader (Taxes) appearing for the Respondent has no serious objection.

8. Heard the learned counsel for the petitioner and the learned Additional Government Pleader (Taxes) for the Respondent and also perused the materials available on record.

9. In the present case, since the petitioner's staff who was looking after the accounts of the petitioner's concern, left the services, the petitioner was not aware of the personal hearing notices uploaded in the GST portal and therefore failed to appear for personal hearing.

10. It is settled law that violation of principles of natural justice is a failure of due process. If any order is passed against the petitioner with demand, that order has to be passed after giving an opportunity of personal hearing to the petitioner otherwise, it will amount to depriving the interest of the petitioner and the same amounts to violation of principles of natural justice.

11. In the case on hand, the impugned order came to be passed without hearing the petitioner. Hence, this Court is of the view that the impugned order passed is 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

assessment order dated 14.08.2024 passed by the Respondent. Accordingly, this Court passes the following order:-

(i) The order impugned herein is set aside and the matter is remanded to the Respondent for fresh consideration on condition that as volunteered by the Petitioner, they 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 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.

12. Accordingly, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

12.03.2025

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

Deputy Commercial Tax Officer,
Chidambaram-1, Cuddalore.

Krishnan Ramasamy,J.,

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W.P.No.8226 of 2025

12.03.2025