IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.03.2025

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.7178 of 2025
and
WMP.Nos.7965 and 7968 of 2025

Periyandichi Amman Timber Mart
Rep by its Proprietor, A Sekar
No. 23/2, Kamalapuram Pirivu,
Kaliamman Kovil Back Omalur,
Salem- 636455.

...Petitioner

..Vs..

State Tax Officer
Roving Squad-II/Adjudication
Intelligence Salem,
3rd Floor, Commercial Taxes Office Building
Pitchards Road, Hasthampatti,
Salem 636007 ... 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 impugned order of the Respondent passed in GSTIN: 33ARGPS3198A1ZU/2019-20 dated 21-11-2024 and quash the same.

For Petitioner : Ms.A.Divya

For Respondent : Mrs.K.Vasanthamala
Government Advocate (Taxes)

ORDER

This writ petition has been filed challenging the order of the respondent dated 21.11.2024 and to quash the same.

2. Mrs.K.Vasanthamala, learned Government Advocate (T) 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 submitted that initially the respondent issued Show Cause Notice dated 19.08.2024, for which the petitioner vide letter dated 19.09.2024 sought extension of time to file its reply. But the respondent, without considering the same and without providing an opportunity of hearing has passed the impugned orders on 21.11.2024, demanding tax along with interest and penalty for the Assessment Years 2017-2018 to 2024-2025 and therefore the impugned orders passed is in violation of principles of natural justice. He further submitted that since the petitioner's consultant had not informed about the impugned order, the petitioner is not aware of the same. They petitioner came to know of the impugned order

belatedly.

5. The learned Government Advocate (Taxes) appearing for the respondent would submit that show cause notice along with personal hearing notices were issued to the petitioner and since the petitioner had neither filed its reply nor attended the personal hearing, impugned assessment orders came to be passed. Therefore, he would submit that principles of natural justice has been duly complied with.

6. In reply, the learned counsel for the petitioner would submit that the petitioner is now ready and willing to pay 10% 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 Government Advocate (Taxes) has no serious objection.

7. I have considered the submissions made by the learned counsel appearing on either side and perused the records.

8. In the present case, the petitioner contends that though the petitioner sought time to file its reply, the respondent has not considered the

same and passed the impugned order. That apart, 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.

9. In the case on hand, the impugned order was passed without giving opportunity of personal hearing to the Petitioner and therefore the same is liable to be set aside. Accordingly, this Court passes the following order:

10. In such view of the matter, this Court is inclined to set aside the impugned orders dated 21.11.2024 passed by the Respondent. Accordingly, this Court passes the following order:-

> (i) The orders impugned herein are set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay 10% of disputed tax to the respondents 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.

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

03.03.2025

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

Krishnan Ramasamy,J.,

arr

To

State Tax Officer
Roving Squad-II/Adjudication
Intelligence Salem
3rd Floor, Commercial Taxes Office Building
Pitchards Road, Hasthampatti,
Salem 636007

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