IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.03.2025

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.7267 of 2025
and
W.M.P.Nos.8082 and 8083 of 2025

Senthil & Co,
Represented by its Proprietor
Mr.Subba Naickar Senthilkumar,
No.639, Sriperumbudur Main Road,
Pudhuppedu Koot Road,
Annai Anjukam Nagar, Nandambakkam,
Kundrathur,
Kancheepuram - 600 069. ...Petitioner

..Vs..

The Assistant Commissioner (ST),
ORAGADAM:KANCHEEPURAM:
KANCHEEPURAM DIVISION
No.4/109, Third Floor, Bangalore Chennai Highway,
Varadharajapuram, Nazarathpet,
Chennai 600 123. ... 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 of the Respondent order in Reference Number ZD330624132234S/2019-20 dated 14.06.2024 and quash the same as arbitrary, illegal.

For Petitioner : P.Bhuvanesh

For Respondent : Ms.P.Selvi
Government Advocate (Taxes)

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ORDER

The challenge in this writ petition is to the order dated 14.06.2024 passed by the Respondent and to quash the same.

2. Ms.P.Selvi, 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 time of admission stage itself.

4. The learned counsel for the petitioner submits that respondent issued show cause notice dated 01.06.2023 followed by reminder dated 10.06.2024 to the Petitioner and since the petitioner's consultant failed to inform the same to the petitioner, the Petitioner was unaware of the said proceedings and therefore they could not file reply to the same. Under such circumstances, the respondent passed the impugned order dated 14.06.2024, demanding tax along with interest and penalty for the Assessment Year 2019-20 and the same was also uploaded in the GST portal. The Petitioner came to know of the same

only after receiving phone call from the respondent in this regard. He further submitted that a sum of Rs.4,01,020.00/- i.e., more than 25% of tax liability has been recovered from the Petitioner.

6. Further, he would submit that no opportunity of personal hearing was granted to the petitioner before passing impugned order and therefore the same is in violation of principles of natural justice and hence prays to set aside the same.

7. On the other hand, the learned Government Advocate (Taxes) would submit that though the show cause notice followed by reminder notice were issued to the Petitioner they failed to submit their reply and therefore impugned order came to be passed. As far as the contention of the petitioner with regard to the payment of tax liability to the tune of Rs.4,01,020.00/ is concerned, the learned Government Advocate (Taxes) would submit that appropriate orders may be passed subject to verification.

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

9. In the present case, since the petitioner's consultant failed to inform the petitioner about the proceedings, the petitioner is unaware of the same. 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 was 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 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The order impugned herein is set aside.

(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.

(iv) The Respondent is at liberty to recover a sum of Rs.4,01,020.00/- in case, if no amount has been recovered from the petitioner, as contended by him.

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

03.03.2025

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

The Assistant Commissioner (ST),
ORAGADAM:KANCHEEPURAM:
KANCHEEPURAM DIVISION
No.4/109, Third Floor, Bangalore Chennai Highway,
Varadharajapuram, Nazarathpet,
Chennai 600 123.

<u>Krishnan Ramasamy,J.,</u>

arr

W.P.No.7267 of 2025

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