IN THE HIGH COURT OF JUDICATURE AT MADRAS

**Dated : 20.03.2025**

Coram

**The Hon'ble Mr.Justice Krishnan Ramasamy**

**W.P.No.9286 of 2025**
**and**
**W.M.P.No.10420 of 2025**

Ranganatha Iyer Krishnamoorthy
[GSTIN-33AUYPK186H1ZA] ... Petitioner

..Vs..

The Assistant Commissioner (ST) (FAC),
KK Nagar Assessment Circle,
Greams Road, Annexe Building,
Chennai 600 006. ... 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 proceedings bearing GSTIN/33AUYPK1861H1ZA/2019-20 on the file of the Respondent quash the impugned order dated 07.02.2023 as illegal and contrary to the established principles of law.

For Petitioner : Mr.Ashwin Shanbhag

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

**ORDER**

The challenge in this writ petition is to the order dated 07.02.2023 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 initially the show cause notice dated 28.12.2022. Thereafter, the petitioner started ascertaining the necessary documents which pertains to three years back, but the respondent without giving sufficient time has issued the reminder and subsequently passed the impugned order dated 07.02.2023, demanding tax for the Assessment Year 2019-2020. Thereafter, 2nd show cause notice dated 18.05.2024 as well as third show cause notice dated 31.05.2024 followed by various reminders were issued to the petitioner and subsequently passed the assessment orders with respect to the 2nd show cause notice and 3rd show cause notice on 06.08.2024 and 23.08.2024 respectively. Challenging the impugned order dated 07.02.2023 pertaining to the 1st show cause notice, this writ petition

has been filed by the petitioner.

5. Further, he would submit that when the impugned proceedings had been initiated long back in the year 2022 vide issuance of 1st show cause notice followed by impugned order , there is no reason for the respondent to reopen the concluded proceedings. That apart, the impugned order has been passed without affording an opportunity of hearing to the petitioner and therefore the same is passed in violation of principles of natural justice and hence he prays to set aside the same.

6. The learned Government Advocate (Taxes) appearing for the Respondent submitted that though the Show Cause Notice as well as the personal hearing notice were issued to the petitioner, the petitioner neither failed to submit its reply nor appeared for personal hearing and hence impugned 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 Government Advocate (Taxes) appearing for the Respondent has no serious objection.

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, it is the case of the petitioner that in pursuant to the show cause notice, the petitioner started ascertaining the necessary documents which pertains to three years back, but the respondent without giving sufficient time has issued the reminder and subsequently passed the impugned order.

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 affording an opportunity of hearing to 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 07.02.2023 passed by the Respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 07.02.2023 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.

**20.03.2025**

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

The Assistant Commissioner,
Podanur Circle,
Dr.Balasundaram Road,
Coimbatore -641 018

**Krishnan Ramasamy,J.,**
arr

**W.P.No.9286 of 2025**

**20.03.2025**